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Senate

The Senate met at 2 p.m. and was called to order by the Honorable CLAIRE MCCASKILL, a Senator from the State of Missouri.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, our refuge and hope, thank You for the opportunity to make a substantive difference for good in our world.

Guide our Senators that they may discover new opportunities to fulfill Your purposes. Lord, give them the wisdom to become concerned about the things that touch Your heart, enabling them to become instruments of Your glory. Open their ears to the cries of the lost and the least in our Nation and world, as they seek to remove the shackles of the hurting. Remind them that apart from You, they can accomplish nothing of lasting significance.

And, Lord, please place Your healing Hands upon Senator EDWARD KENNEDY.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CLAIRE MCCASKILL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 19, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CLAIRE MCCASKILL, a Senator from the State of Missouri, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. MCCASKILL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

WELL WISHES FOR SENATOR KENNEDY

Mr. REID. Madam President, I received a call early Saturday morning that Senator KENNEDY had taken ill. Since that time, we have heard only encouraging words from his doctors and his family. I spoke to Vicki, his wonderful wife, a couple hours ago. He is resting comfortably. He is having some more tests run today. He is doing very well. Vicki tells me Senator KENNEDY is not only up moving around, but over the weekend he was able to watch some movies, but, more importantly, he was able to watch some Red Sox games. I would note in passing, it cannot hurt his recovery that the Red Sox have won three games in a row.

Anyone who knows Senator KENNEDY and his tremendous work ethic realizes no one is more eager to get back to work than Senator KENNEDY.

So to my good friend, the Senator from Massachusetts, I say: Rest and get well. All of your friends and colleagues in the Senate wish you the very best and look forward to your quick return because there is a lot of work we are depending on you to do. We have a number of things, of course, we were working on together last week.

I talked to him Friday at some length. I am going to give a couple speeches—actually three—on Wednesday because we are having celebrations here in the Capitol on the 100th birthday of Senator, Majority Leader, and President Johnson. It was interesting to hear Senator KENNEDY—who had worked with him in all of his capacities, as Senator, majority leader, Vice President, and President—some of the comments he had about President Johnson.

So we look forward to Ted being back as soon as possible.

SCHEDULE

Mr. REID. Madam President, following leader time, there will be a period of morning business for Senators, and they will be able to speak for up to 10 minutes each. There are no votes today, but this is going to be a very busy week. We have a certain number of things we have to do.

We are going to do as many circuit judges as we can. We will certainly at least do one. We have the budget conference report we have to complete. We hope to go to that on Thursday at about 4 o'clock. And, of course, the big one we have to do is the supplemental appropriations bill regarding the war funding in Iraq. Those things we have to complete before we leave here. The budget and the supplemental we have to finish before we leave.

As I indicated, we are going to have some things here on Wednesday in the Capitol regarding President Johnson. From 11 until 12 noon on Wednesday, there will be a time set aside on the Senate floor for tributes to the former President on the centennial of his birth.

NOMINATIONS

Mr. REID. Madam President, I expect the Senate will consider the nomination of Steven Agee to a Virginia seat on the Fourth Circuit Court of Appeals.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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Judge Agee is currently a member of the Virginia Supreme Court. His nomination to the Federal bench is supported by both Senators WEBB and WARNER, and I am confident he will be confirmed overwhelmingly.

Several weeks ago, I pledged my best efforts to have, by the Memorial Day recess, three circuit court nominations completed—by Memorial Day, as I said. I explicitly said at that time that ''I cannot guarantee'' three confirmations because the outcome would depend on factors that are certainly beyond my control. Still, Senator LEAHY and I have worked hard to move three appellate nominees this month. Judge Agee is one of those three. The next two it appears, in line are Sixth Circuit nominees Raymond Kethledge and Helene White, both of Michigan.

These nominees are the product of an agreement between the White House and Senators LEVIN and STABENOW. It took about 5 or 6 years to work out this agreement, but we now have a chance to fill the vacancies on that circuit.

Senator LEAHY expedited consideration of the Michigan nominees in light of the pledge I made. I did that with the full understanding of Senator LEAHY. Unfortunately, though, Senators on the Republican side on the Judiciary Committee have delayed consideration of Judge White.

I do not know what you would say about what took place at our hearing. Senators have a right to ask questions. They can ask questions. There is certainly leeway. They can basically ask anything they want, and they did. They, following the hearing, asked a total of 73 separate written questions, and some of them were very, very time consuming. As I said, every Senator has a right to ask questions of a nominee, but the number and nature of the questions posed to Judge White suggest there was more to it than just the questions. They went into some things very personal in nature that I am not certain were probative as to this good woman's ability to be a circuit court judge.

In addition, Republicans have insisted that the nomination not move forward until Judge White's ABA review is complete. That is fine with us. They have that right. But in this case, it is ironic they would make that request since she was rated qualified by the ABA 10 years ago when Republicans blocked her nomination from moving forward. Since that time, she has been a sitting Michigan appellate court judge.

It is still possible the Senate will consider these two Michigan nominees before the recess. But if it does not happen, it will be despite my best efforts. I indicated I want to do everything I can to complete this. But we have to have the ABA report, and these questions, as I have indicated, have to be completed.

It is pretty clear these 34 numbered questions I have talked about—a number of them were compound questions, and that is how we arrived at the number 73—some of these are straightforward questions about judicial philosophy, but there are a number of others that are very time consuming and I am not sure bear on her qualifications. But they have a right to ask those questions.

For example, Senator SESSIONS asked Judge White to compile her caseload statistics as compared with other judges on her court, including the median time intervals between case filing and date of disposition. Think about that. That is a lot of work, a lot of math. Senator SPECTER asked her to supply names and addresses of the groups involved in panel discussions, conferences, and meetings she attended, as well as numerous unpublished opinions.

These are not unreasonable questions, but they are time consuming and they were submitted right before the deadline for submitting written questions to the nominee.

In contrast, Republicans asked Mr. Kethledge—the so-called Republican nominee—the other Michigan nominee, only seven questions, and they were all pretty easy; none of them burdensome questions.

Republicans preferred that Chairman LEAHY, I guess, consider other nominees before the Michigan nominees, but nothing in my pledge regarding judicial nominations deprives Chairman LEAHY of his prerogative to determine the sequence of nominations that would come before his committee.

No one presumed to instruct Senator SPECTER about the sequence of nominations during the years he served as chairman of the Judiciary Committee. And certainly Senator HATCH exercised the chairman's prerogatives freely during the years in which more than 60 of President Clinton's nominees were denied hearings or floor consideration.

Chairman LEAHY and I will continue to process judicial nominations in due course, consistent with the Senate's constitutional role. Consideration of Judge Agee's nomination tomorrow is consistent with that goal.

Madam President, is there going to be a period of morning business now?

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

Mr. REID. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SALAZAR. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SALAZAR. Madam President, I ask unanimous consent I be authorized to speak in morning business for as much time as I might consume.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS

Mr. SALAZAR. Madam President, this week is a very important week for the United States of America and for the Senate because we will begin our dialog about where we are in Iraq today and where we are going in Iraq in the future; where we are in Afghanistan today and where we are going in Afghanistan in the future.

As part of this dialog we will engage in here in the Senate over the next few days, we will also engage in a major discussion about how it is that our Nation should treat those veterans from both Iraq and Afghanistan, those veterans who have served our country since our country was attacked on 9/11.

It is important at the outset, as we begin this discussion, to first of all pause to remember that there has been a great deal of sacrifice on the part of Americans in terms of life and blood in both Iraq and Afghanistan. We must remember these warriors, these fighters who have been fighting for the cause of their country. We must do that every day so their contribution is never forgotten.

As of today, in Iraq there have been 4,078 Americans who have given their lives carrying out the orders of their Commander in Chief. In Iraq, as of today, since the beginning of that war, there have been 30,004 members of our armed services who have been wounded in Iraq. Let me repeat that number one more time: 30,004 members of our armed services who have been wounded in Iraq. In Afghanistan, where we have now been for 7 years, fighting a just war, going after the Taliban—an effort that spearheaded and should have succeeded in going after Osama bin Laden—in Afghanistan there have been 4,097 Americans who have been killed and 1,044 who have been wounded. For these brave men and women who have served our country and who have given their lives or who have been wounded in the cause that has been assigned to them, we should dedicate the debate we will have on the floor of the Senate in the days ahead.

Today, as we begin that debate, I want to speak about two things. First, with respect to Iraq, it has been my view for the last several years that we need to have a new direction in Iraq. In December of 2006, when the Iraq Study Group, headed up by Congressman Lee Hamilton and former Secretary of State James Baker, came forward with

the bipartisan Iraq Study Group recommendations, they came forward with a coherent set of recommendations about how we ought to move forward in the transition of the mission in Iraq. That was more than a year and a half ago when those recommendations were coming together.

Since then, some of those recommendations have been implemented, but by and large the bulk of those recommendations—in what the heart of the recommendations was really all about in the Iraq Study Group report—have not been implemented. The heart of those recommendations was, if the United States did some things right, we would be able to transition in the spring of 2008—which is right now, the spring of 2008—from a mission of combat over to a mission of support, of training the Iraqi forces, of providing protection to the American interests in Iraq, making sure we had special forces on the ground to chase al-Qaida and other terrorist elements.

That is the transition of mission which was called for by the Iraq Study Group, now some time ago, where they said this transition should be completed by the spring of 2008.

We are not there yet. One of the things on which we will engage in a debate on the floor this week is where we ought to go. In my view, that transition of mission is something we should require by law. We should require it because it is the only way in which ultimately we are going to be successful in Iraq. It is the only way in which the baton and mantle of responsibility which the United States of America has assumed for security in Iraq can be handed over and given to the Iraqi Government. It is time for the Iraqi Government and the Iraqi people to stand up for their own nation. The time for the United States of America to be doing it on behalf of the Iraqi people has come to an end. It will be coming to an end.

I hope this debate leads us to find that new direction in Iraq in the days and weeks and months ahead. But there is another element to this debate that we will have this week, and that is how we, as a grateful nation, honor the 1.6 million veterans who have served this country since September 11, 2001, when this country was attacked. This week we will have an opportunity to stand for our veterans in a way that walks the walk, not just talks the talk about how great our veterans are—because they are—but allows us an opportunity to send them an unmistakable signal that we, as a grateful nation, are willing and wanting to pay them for that sacrifice they have made for our country.

Abraham Lincoln, in his second Inaugural Address on March 4, 1865, said the following:

> With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation's wounds, to care for him who shall have borne the battle and for his widow and his orphan, to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations.

Today we will begin the discussion about how we move forward with what will be known in time as the 21st century GI bill of rights.

It is, in our parlance, S. 22, which is a formulation of this 21st century GI bill of rights which has been put together by none other than Senator JIM WEBB from Virginia, who himself has been a great contributor to so many causes for American veterans and who, through his own pen and through his own writing and his own work, has taken the lead in making sure we are providing this honor to our veterans who have served since September 11, 2001. For his work, and the work of colleagues who will join him in this effort, we need to pay him tribute for making sure he is making America walk the walk in honoring our veterans.

I also wish to applaud the great leadership of Senator HAGEL, who does so much to bring that voice of independence and authenticity to the floor of the Senate; to Senator JOHN WARNER, who is oftentimes the Moses, with his voice leading us out of the wilderness on tough issues here in the Senate; to Senator LAUTENBERG, who himself was a beneficiary of the GI bill of rights as a World War II veteran and who today speaks so eloquently on behalf of the veterans and the military policy of our country. And also to all of the other Senators, the 58 Senators who have joined us in this legislation, along with Senator AKAKA, who is the chairman of our Veterans Affairs' Committee, who so often is standing to make sure we do not forget what the veterans have done here for us in America, along with Senator INOUYE, Senator STEVENS, and others who have been so much a part of this effort.

I am pleased that the bill that was reported out of the Appropriations committee with the 2008 Supplemental Appropriations Act, includes provisions to help a new generation of veterans receive the educational benefits they have earned through their service in wartime. The 1.6 million soldiers and sailors, airmen and marines who have served in Iraq or Afghanistan over the last 7 years, often with multiple deployments which last up to not only a year but 15 months, have given more than their country could have expected of them. It is right and it is proper that their country honor them with the benefits commensurate with their service and with their sacrifice.

The GI bill the Congress passed after World War II proved to be one of the greatest ideas this country has ever had. That GI bill was based on a simple but powerful premise: If you served your country in wartime, your country would pay for your education. If you served your country during wartime, your country would pay for your education—a simple but powerful premise.

For the 7.8 million World War II veterans who took advantage of the GI bill, this great idea opened the doors of opportunity in civilian life. It eased the difficult transition from wartime service to peacetime employment and equipped the greatest generation—the greatest generation—with the education and skills to lead our country into an era of prosperity and into an era of growth.

Over the last half century, the educational benefits we offer our veterans have evolved from the wartime service benefits of the World War II GI bill to a more limited set of educational benefits known as the Montgomery GI bill. Designed primarily for peacetime, the Montgomery GI bill helps defray the cost of tuition, but it does not cover the full cost of education. Today, almost 7 years into the war in Afghanistan and more than 5 years into the war in Iraq, the educational benefits we offer our veterans should reflect the magnitude of the sacrifices they are making on our behalf.

The 21st century GI bill does this by restoring the principle of the first wartime GI bill. Under S. 22, servicemembers who have answered the call of duty since September 11 will receive an educational benefit that will cover the full cost of a 4-year public education. The benefit will be available to not only the Active-Duty component but also to members of the National Guard and Reserve, proportional to their amount of Active-Duty service since September 11, 2001. It is fitting and it is proper that they be included in this benefit.

Now, in an unfathomable and incomprehensible way, to me, I know there are critics of this bill, including the President of the United States, who said that this bill is too expensive—that this bill is too expensive. To them, I say that providing our servicemembers a comprehensive educational benefit is simply a cost of war.

Since 2003, we have spent over $525 billion in Iraq alone—that is $525 billion in Iraq alone. This year, we will spend nearly $150 billion in Iraq, over $12 billion a month every month. Compare that to this 21st century GI bill of rights. It will cost between $2.5 billion and $4 billion a year—$2.5 billion to $4 billion a year. Think of that. The cost of this new GI bill is about the same as a cost of conducting the war in Iraq for 10 days—for 10 days.

As we have a duty to provide our men and women in uniform the equipment they need to do their jobs, so, too, we as a nation and the Senate have a duty to provide them the educational benefits that will assist their transition back to civilian life. This should not even be a close question. This should not even be a debate.

In addition to all the opportunities this bill will create for America's newest veterans, this bill is a smart investment for both our military and our economy. The educational benefits under this legislation would help us rebuild our military.

Over the last several years, the Army has consistently been missing its recruiting goals. As a result, the Army has relaxed its enlistment policies, lowered the standards for signing up new soldiers, and implemented a stop-loss policy to keep soldiers in beyond their contract obligation. This formula is symptomatic of a military in America which today is under severe strain. It is a formula that will, over time—and it already has—erode the quality of our armed services. The benefits under this 21st century GI bill will reverse this trend by attracting a new generation of high-quality recruits who come to the service of their country for the promise of an education in return.

S. 22 is a powerful recruitment tool. It is also a very smart economic investment. Each month it seems we read a new report describing how America is falling behind in education and losing its global competitiveness. With tuition costs rising, more and more young Americans are finding college out of reach. Ask those young Americans in college today or ask their parents today about how far out of reach college has become for them.

Veterans who in another era would have been able to use their Montgomery GI bill to pay for college now find their benefits have not kept pace with tuition growth. After years of service to their country and multiple deployments, college remains out of reach.

By making college accessible again to those who have answered the call since September 11, we will be making one of the smartest investments we can possibly make. By giving veterans a clear path from the military to the classroom, we will be equipping them with the skills and knowledge they need to lead our world. We will be helping them fulfill their destiny as the greatest generation of their time, leaders in their community, leaders in business, and leaders for America and the world in the 21st century.

I am proud of all of my colleagues who are behind this bill. I am proud of the leadership of Senator DANNY AKAKA, the chairman of the Veterans' Affairs Committee. I am proud of Senator WEBB, who has led this. I am proud of Senator HAGEL, whose principled voice serves our soldiers so well; Senator WARNER, whose wisdom and leadership on the Armed Services Committee has been so valuable for so many years; and Senator LAUTENBERG and Senator AKAKA, who both attended college under the GI bill in World War II. I thank each of them for their leadership.

I am proud the 21st century GI bill is included in this fiscal year 2008 supplemental. I am proud we have resisted efforts to weaken the bill. I am proud we have the opportunity to honor the service of our veterans with this GI bill to better reflect their sacrifice.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii is recognized.

A NEW GI BILL

Mr. AKAKA. Madam President, I rise to speak in support of a new GI bill for the 21st century.

As chairman of the Senate Veterans' Affairs Committee and as one of the 8 million veterans who took advantage of the opportunity to attend college on the original World War II GI bill, I know first-hand the value of this benefit. It is one of the reasons why I am here today in the U.S. Senate.

Without the generous support I received from the GI bill and the maturity and discipline I gained from my military experience, I am certain that my life would have turned out much differently. Being able to attend the University of Hawaii—with all expenses covered—and receiving an allowance of $113.50 a month—gave me the start in life that led to me standing here in this body today.

Now we should give that same opportunity to those young people—stepping forward—who put themselves in harm's way for our country. That is why I have given my enthusiastic support to the provisions that will come before the Senate later this week in the supplemental appropriations bill that would establish a new program of educational assistance for veterans and servicemembers.

Those provisions are drawn from S. 22,—the proposed Post 9/11 Veterans Educational Assistance Act of 2007, which was introduced by my good friend and colleague from Virginia, Senator WEBB, who serves with me on the committee. This is a bipartisan measure that has already been approved by the House of Representatives.

This legislation will give thousands of young men and women who sacrificed for our country the opportunity to return to civilian life and pursue a full-time college education without worrying about what they will live on. It makes good on our promise of an education in return for volunteering to serve in our military and for honorable service.

To those who have concerns about the impact that this proposal might have on the Armed Forces ability to recruit and retain quality personnel, there are a number of points which must be made.

First, this new GI bill for the 21st century would be a powerful recruitment tool for our military. Our bright, college-bound high school seniors will see this as an attractive way to pay for their advanced education. By completing a 3-year commitment, they will earn a benefit that will allow them to attend school without accumulating thousands of dollars of debt.

As for retention, the armed services cannot retain those who they do not recruit.

In addition, this proposal incorporates a number of tools that the military can use to make longer commitments attractive, including retention kickers and the option of transferring benefits to family members.

I believe that those who would rely on transferability as an incentive to longer service would be disappointed. In 2006, the Army began offering this option to certain soldiers in critical skill areas. Less than 2 percent of the 17,000 soldiers who were given an option to transfer benefits to a spouse accepted it. Now the program has been expanded to permit transferability to children, but much more experience is needed before anyone can positively say that this benefit would have the desired impact on retention.

Finally, I want to say a few words to those who are concerned about the cost of the program. I have long said caring for veterans is a continuing cost of war. This Nation will be paying for the conflicts in Iraq and Afghanistan for many years. The cost of this program is a very small portion of the total funds that have already been spent and will continue to be incurred in the future. As others have pointed out, this program would be an extremely small percentage of what these conflicts are costing us each day.

I have worked very closely with Senator WEBB in developing this legislation. I take this opportunity to thank both Senator WEBB and his staff, especially Phillip Thompson and William Edwards, for their cooperation and collaboration. I also thank Senator JOHNSON and Appropriations Committee staff, Chad Schulken, as well as Senator HAGEL and his staff member, Sarah Pullen for their cooperation and assistance.

I believe that what the Appropriations Committee has reported, and that will be before us later this week, is a workable and effective proposal and I urge my colleagues to support it and the President to sign it into law.

It is time for a new GI bill for the 21st century.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. CANTWELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

GAS PRICES

Ms. CANTWELL. Madam President, I rise today to talk about the out-of-control oil prices we are seeing and what we can do about it right now. I see we have reached another record in gas prices with the national average topping $3.79 a gallon, and today is the 13th day in a row we have seen an increase in gas prices.

It is time Congress be more aggressive at trying to solve this problem. We have taken some action in the last week, both on the Strategic Petroleum Reserve and on the farm bill, trying to put more teeth into the CFTC. But we need to do more.

Democrats certainly want to police the oil and gas markets. We want to make sure we are doing a better job at policing these markets and restoring the authority the CFTC once had, and in making sure the CFTC does its job in preventing fraud, excessive speculation, and market manipulation. But many of my colleagues may not remember exactly how we got to this point after we substantially deregulated the energy futures market. While the oil futures market may seem like an issue that many may not understand in America, I guarantee my colleagues that oil futures affect the price of gasoline today. In fact, oil futures out to 2015 are already over $100 a barrel and certainly affect the price of gas at the pump. But on a dark December night in 2000—in fact, it was December 15, the last day of the 106th Congress—an amendment was put on the Omnibus appropriations bill that received little attention and basically deregulated the energy futures market. That amendment that deregulated the energy futures market—the Commodity Futures Modernization Act—was added quietly to the 11,000-page must-pass Omnibus appropriations bill, right when Congress was adjourning. This deregulation has had a major impact on what we now lack in the oversight of markets.

In fact, we had one analyst, Gretchen Morgenson, being quoted as saying:

> The Commodities Futures Exchange Act was an early Christmas gift to a company that had worked hard to persuade Members of Congress that the electronic energy exchanges and all the trades made on them should be exempt from regulators' prying eyes. The company was Enron.

So while many of my colleagues may not have realized in 2000 exactly what was happening, it was clear Enron knew exactly what it was lobbying for in getting the Commodities Futures Modernization Act attached to the Omnibus appropriations bill. In fact, Enron spent close to $2 million lobbying to make sure we deregulated the energy market. I can't tell my colleagues—besides what has happened with the electronic trading of electricity—how much this has impacted the rest of our energy markets that some of my colleagues may not understand.

What this CFMA bill did is it substantially deregulated the energy futures market. It did that because it allowed energy futures trading on dark, opaque markets, it substantially relaxed existing regulation of energy trading, and it wholly excluded volatile financial derivatives which are at the center of today's credit crisis—credit default swaps.

At that point in time, there were many who were arguing that the CFTC should have had an aggressive role in regulating credit swaps, and that bill that was passed, again, on December 15, 2000, at 7 p.m. at night, on an 11,000-page omnibus bill, basically prevented any regulation whatsoever of credit default swaps. I think many understand now exactly how detrimental it has been not to have more insight into credit default swaps and the impact they have had on the credit crisis.

We had good consumer protection tools in place before deregulation. I wish to make sure my colleagues understand that. We had good consumer protection tools in place prior to this deregulation. On all energy futures exchanges, we required records be kept for all trades. Large trades on all exchanges had to be reported to the CFTC, which means that if somebody had a large position in a particular futures or derivative contract, they had to report that to the CFTC. There were speculation and position limits required on all exchanges. The CFTC had to review all trading for fraud and manipulation and for excessive speculation. That was one of their responsibilities. Also, traders had licensing and registration requirements.

So all those things were a part of the regulatory framework the Commodities Futures Trading Commission used to make sure that all energy markets were not being manipulated and to make sure that particularly on large trades, people weren't using large positions in the marketplace to affect prices. In fact, it led the chairman of the CFTC at the time to say:

> . . . Large Trader information system is one of the cornerstones of the CFTC surveillance program and enables detection of concentrated and coordinated positions that might be used . . . to attempt manipulation.

So here is the chair of the CFTC basically saying that large trader information is most critical to policing the futures market. Yet that is exactly what we gave up on certain exchanges when we deregulated the futures markets. We ended up deregulating large trades reporting to the CFTC.

So that is what the chairman said about the key tool one uses as a cornerstone. Basically, we threw it out and said you don't have to do this anymore—a big mistake and part of the reason we don't have more insight into why oil company executives are saying oil should be $50 to $60 a barrel. Yet we are seeing $127 a barrel, and no one can justify, based on supply and demand, why we are here. What we need to ask ourselves is why we deregulated these markets and are not putting more teeth into protecting consumers.

So what has happened since deregulation? Well, we created dark markets with no transparency. That means that trading happens without insight, without those rules I mentioned before. There is no U.S. requirement to keep records. There is no large trader reporting. There are no speculation limits. There is a high risk for manipulation and excessive speculation.

I ask my colleagues to consider what would happen if we did something similar to other areas of our financial markets and organizations. Many people think of the stock market today and they say: Well, the stock market must have some oversight. We hear stories all the time about people who have violated SEC rules.

Well, that is right. The Securities and Exchange Commission oversees the stock market and uses some of those same tools I mentioned to make sure there is oversight. Yes, there is oversight of the stock market.

Many people have heard of NYMEX—the New York Mercantile Exchange—and wonder whether it meets certain rules such as whether you have to register to be a trader there, whether somebody looks at large trading positions, and whether there is excessive speculation. The answer is yes, in this case we do have a Federal agency that oversees those things and we do have oversight. The Chicago Mercantile Exchange is another trading platform that is instrumental particularly in agricultural commodities and agricultural futures. The CFTC oversees the Chicago Mercantile Exchange for those same things: trading positions; large traders maybe doing untoward things; people have to register; speculation limit; all those things.

But now all of a sudden we have a new trading platform called the Inter-Continental Exchange, or ICE, that is largely unregulated. Back in 2000, Enron helped promulgate this idea that they don't have to meet those same requirements. So here we are. The stock market, including NYMEX and Chicago Mercantile Exchange and others, are all subject to CFTC oversight requirements. But then a trading platform where energy futures are traded without proper oversight gains a huge market share because we deregulated that type of over-the-counter exchange in 2000.

I can tell my colleagues we need to go back to policing this area of energy futures markets. We are not going to give the consumer the confidence they need to make sure these markets aren't being manipulated or that the price of oil isn't being driven up by hedge fund investors and others who happen to have no oversight as our other financial trading platforms do.

So to be clear, ICE is a dark market. That means it doesn't have the transparency. There is no direct CFTC review of trading for fraud, manipulation or excessive speculation. They don't do any of that. They also failed to stop Amaranth, which was a big hedge fund trading in natural gas futures.

The PRESIDING OFFICER (Mr. CARDIN). The Senator's time has expired.

Ms. CANTWELL. Mr. President, I ask unanimous consent to use such time as I might consume.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Reserving the right to object, I was thinking I was supposed to speak at 4 o'clock and the Senator was to speak after me. I don't know how long it might be if she continues. I have a conflict coming on my

schedule too. I need about 10 minutes. So my inquiry, before I object, might be how long the Senator might expect to proceed.

Ms. CANTWELL. I expect to go for probably about another 5 minutes.

Mr. SESSIONS. I don't object to that, Mr. President.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Thank you, Mr. President.

So to continue on this point, Amaranth actually tried to make some of these energy futures trades on the NYMEX exchange. What happened is NYMEX said: No, you can't hold such large positions on this exchange. NYMEX wouldn't allow Amaranth to do it. Instead, they just went to the ICE exchange—again, without the transparency—and promulgated some of these things which ended up costing consumers billions of dollars.

Another product is traded on the ICE, but on an exchange they own in London, the West Texas Intermediate crude oil contract, which is a benchmark for crude oil prices. It is interesting because West Texas Oil does give us some indication about what oil futures are going to be and what the price of oil is going to be. Since it started trading on ICE in February of 2006, the price of crude oil has doubled. So we can see it has had a big impact.

I wish to make sure people understand because Amaranth is an example. We had Enron, which had many impacts on the electricity markets in the West. It cost billions of dollars in our State and throughout the west coast. Many of my consumers were greatly impacted by that. Amaranth came along in the natural gas markets and there was similar manipulation. So we saw it in electricity, we saw it in natural gas, and now we want to make sure oil markets are being policed. But Amaranth, as I said, was told to reduce its positions because the NYMEX didn't like the fact it had large trading positions. Instead of doing that, they switched over to this dark market that is unregulated and continued to hold these large positions which caused volatility and again, as I said, cost consumers over $9 billion.

So where are we today? Well, we have in the farm bill taken a good step forward in trying to put some teeth back into the CFTC, but we need to do more. We need to ensure consistent market rules are there for all U.S. oil trading. We need to make sure our U.S. oil-trading platform has the type of transparency and the bright light of day on it. We need to make sure it is subject to U.S. trading exchanges, that those trading exchanges have the oversight of CFTC, and that energy traders can't simply justify any exemption and say the burden of proof is on the CFTC.

So what are we talking about? Some people say because the West Texas oil contract is being traded on ICE's London exchange it is an international exchange. But the crude oil we are talking about being traded is produced in the United States, it is delivered in the United States, it is consumed in the United States, and it is traded in the United States. The only question we have is if it is regulated in the United States, and the answer is no, it is being regulated by the Financial Services Authority in the U.K. It is a big question mark as to what is causing gas prices to be at $127 a barrel, when energy analysts and oil company executives will tell you it should be between $50 and $60 a barrel.

So if somebody wants to tell you this product is not a U.S. product and should be on this exempt ICE exchange, that is buying something they should not be buying. What is important about this is that since this deregulation, we have seen explosive growth in the oil futures market. In fact, this is 2002, where you can see this on the chart. I hope we can get some numbers for 2000. I guess we will probably see something that is a little more parallel.

Look at this futures market, this explosive growth in derivatives now—this huge growth compared to where the stock market is today. So people are investing all this money in what is a dark market—not all of it, but a big portion in what is the dark market. Here, again, is what oil prices were. We created the Enron loophole and then the ICE started changing the West Texas intermediate oil and the price went up. When the dark market—the lack of transparency of trading oil futures—happened, the price shot up.

We need to get back to the basics. One of the CFTC commissioners said:

> I am generally concerned about the lack of transparency and the need for greater oversight and enforcement of the derivatives industry by the [United Kingdom's Financial Services Authority.]

We know that another analyst involved in oil trading said:

> Oil's price records are less due to fundamental changes than the increasing proportion of investor demand driving prices higher. I think we'll achieve a price of $150 in the coming six months.

That was Eugene Weinberg who said that. The people in Washington State cannot afford gas coming from $150 a barrel, and I am sure other consumers across the country cannot either.

One of the analysts who spent a lot of time reporting on this said:

> Where is the CFTC now that we need [speculation] limits? It seems to have deliberately walked away from its mandated oversight responsibilities in the world's most important traded commodity, oil.

I think it is time we get back to the CFTC and their responsibility. I will send a letter this week, along with my colleagues—Senator SNOWE and others—to basically ask the CFTC to reverse its no-action letter that allows trade of crude oil, home heating oil, and gasoline futures contracts on ICE to be exempt from U.S. oversight and ask the CFTC to reinstate the authority it has to look at these dark markets.

One of the law professors who testified before the committee said:

> The ICE [oil trading] loophole could be ended immediately by the CFTC without any legislation.

I hope my colleagues will join in signing a letter that says basically these markets cannot continue to remain dark. We need, as in the stock market, recordkeeping. We need to have large trade reporting so we know who is moving large trading volume and impacting the market. We need speculation limits and we need monitoring for trade and manipulation. These are things we can get the CFTC to do tomorrow.

It is time to pop the oil price bubble. It is not based on market fundamentals of supply and demand. We owe it to our consumers to make sure we are policing energy markets. We are going to do all we can to make sure we restore whatever is the proper oversight to these markets to make sure the deregulation that happened in 2000 is put back into place to give consumers more confidence.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

IMMIGRATION

Mr. SESSIONS. Mr. President, I think most of my colleagues may not yet be aware, and would probably be shocked to learn, that late Thursday afternoon during the Appropriations Committee markup, 110 pages of controversial immigration provisions were added to the war supplemental package in the form of four very significant Senate amendments to the House messages. It has been less than a year since the resounding defeat of the Senate immigration bill on June 28 of last year, where cloture failed by a vote of 46 to 53. The proponents of that legislation hoped to get 60 votes, and we walked down there in front of the American people and only 46 voted for it and 53 voted against it.

Yet the amnesty proponents—those who want to enact legislation that legalizes their status and forgives criminal activity, as opposed to creating a lawful system of immigration—are obviously continuing their determined effort to override the will of the American people and legalize the illegal alien population, without Congress acting to fulfill its responsibility to secure the border and create a lawful system of immigration.

That is what it is all about. This is a determined effort to push through the amnesty and the legalization status for people who have entered this country illegally subsequent to our 1986 bill, in which we said we would never have amnesty again, and they continue to seek ways to do that. So now they are seeking to attach their plan to a bill that provides necessary funds for our soldiers in Iraq. The 110 pages of immigration provisions now hidden in the supplemental war bill are offered in the

form of several amendments. Together, these amendments would legalize approximately 3 million illegal alien workers and their family members. They called it AgJOBS light. It is very bad policy, bad legislation, and should not become law. I don't think most of the Senators know this, and I ask that you pay attention to this. It would increase by up to fivefold the number of low-skilled temporary workers who will come to the United States over the next 3 years—5 times the current legal rate of 66,000 workers under that H–2B program.

Some way, we have been allowing more in under that program. Yes, when the economy was booming, we did get up to about 120-some-odd-thousand. This was on that basis even to be at least 2½ times the highest amount we have ever admitted under H–2B, at a time when people are being laid off. I understand the experts expect maybe today or tomorrow a higher unemployment rate to be demonstrated in our country. So why are we going to increase 2½ times the immigration under that bill?

It would also increase the number of employment-based green cards that will be given out over the next few years by 218,000. It is called green card recapture. I note that a green card, in effect, gives permanent legal status to a person who has a green card, and a guaranteed path to citizenship, as long as they don't have some felony offense. It would reauthorize the Foreign Investor Visa Program. That program probably deserves consideration for renewal and reauthorization. I just thought we certainly have not discussed it in the Judiciary Committee, where I think it is supposed to be coming forward. No hearings have been held on it. It was stuck in while the appropriators were considering funding our military men and women in Iraq and in other places. It was stuck into that without any real debate.

The merits of each of these provisions, I suggest, are worthy of discussion. I have proposed—and I think Senator SAXBY CHAMBLISS has agreed with me—a genuine temporary AgJOBS worker program that I think could be the foundation for improvement in this area. But that has been flatly rejected by those in the West, who seem to be obsessed with a program that guarantees people a permanent residence in America, and maybe even a pathway to citizenship—those who came here illegally. We have not had hearings on this in the Judiciary Committee, the committee of jurisdiction, of which I am a member.

I guess the question is, why would they do this? I think it is like we have had time and again—and I hate to say it. It is an effort to bury major alterations in our policy of immigration in legislation that is rushed through the floor of the Congress, without full consideration by the Senators and a full evaluation by the American people. That has been the problem. They tried to bring up the bill last summer in 1 week. We were able to demand and have some votes and some amendments and discussion. When the American people found out what was in it, they put an end to it. So many phone calls came in, the entire Senate switchboard shut down. That is when votes started changing from aye to nay.

I think it is distressing, and it is one reason there is a lack of public confidence in the Congress, because we say one thing in public, and we say something else in committee meetings when, apparently, people are not looking so closely.

Last summer, the words were: We got the message, America. We understand now that you do want a legal system of border security first, before we go through an amnesty proposal. That was what we talked about. That was what I think everybody on both sides seemed to agree was the message of that debate. It was the right answer. That is what the American people instinctively favored. The American people were fundamentally correct on that all along. It was Congress that was out of step with morality, law, and propriety. The American people spoke to them last summer, and I thought we had gotten the message. But oh, no, here we come again.

You don't see any amendments slipped into these appropriations bills that would actually help us improve the legal system in America, that would actually help this country establish a system of immigration that is generous and fair and serves the national interests. Those are not introduced. It is always a way to do a backdoor amnesty.

Let me say this. We provide each year over a million green cards to people who want to become American citizens. A green card gives them a guaranteed permanent residence in America. It puts them on a path to citizenship if they avoid any serious difficulties in the next several years and answer a few English and history questions. This is a generous nation. We have temporary worker programs that work pretty well. But why is it we seem to be incapable of going on and closing the loop and creating a lawful system that actually works? It is frustrating to me. This is not acceptable. This is not an acceptable way to do business. We do not need to have the war supplemental tied up in this kind of controversial debate. I hope my colleagues will see what they can do to make sure our troops are funded in a way that does not create an AgJOBS lite legislation that is fundamentally unacceptable.

What does this AgJOBS do? It is 101 pages. It passed by a 17-to-12 vote. It would grant 3 million illegal aliens—1.35 million workers, plus approximately 1.62 million family members—a 5-year amnesty, or if you would rather call it so, a 5-year legalization to live and work in the United States. For almost all legal purposes, the amendment requires that these legalized illegal aliens be treated as lawful permanent residents. They get basically the same status as green card holders do, except they do not have guaranteed permanency.

Illegal aliens who qualify for the 5-year amnesty are those—get this; this is all it takes to qualify, that you perform agricultural employment for 863 hours or 150 days, 3 months' worth of work, have earned $7,000 from agricultural employment over the course of a 4-year period, anytime from January 1, 2004, to December 31, 2007. That is just last year. This is just last December 31.

It is particularly galling to me—just think about this—this Nation says it is serious about controlling illegal entry into America. Every Senator I know has repeatedly said: I am for a legal system; I am not for illegal entry into America, I don't approve of that. But we would propose legislation—get this—that if you came in last July, and you were able to break through the border barriers that have been put up, the fences, or avoided the National Guard and got into our country illegally, you will be given a 5-year legal status in America. See what this is as a matter of consistency and morality? It is an undermining respect of law at its most basic level. It indicates we have not gotten the message from the American people.

There is no requirement in this amendment that the illegal alien prove they paid their taxes on the wages they obtained when they were here. Examples of who would qualify for this legalization includes any illegal alien who arrived as of the end of 2007 and earned $7,000 in agriculture that year. Mr. President, $7,000; what is that, 3 or 4 months?

Also covered are illegal aliens who arrived as recently as July of 2007 and worked 150 days in agriculture before 2008. It covers illegal aliens who arrived years ago and earned a mere $1,750 for a 4-year period in agricultural employment. They will qualify. It covers aliens who arrived illegally years ago and worked a mere 37.5 days in agriculture a year for 4 years. It will not matter that for the other 327 days a year, they were not working at all or they were competing illegally and improperly with American workers for other jobs that might be available in the economy.

I have seen these bills time and time again. We point out these loopholes in the legislation. But I just want to tell you, Mr. President, I am pretty well convinced now, having seen it time and time again, that this is no drafting error. This was a deliberate attempt to provide a huge number of persons the opportunity to obtain legal status, even though they had a most peripheral connection to agricultural labor.

It also allows spouses and children to receive 5-year visas, allowing them to live and work—and work—in the United States. Illegal aliens whose spouses and children are not already illegally present in the United States

would be encouraged under this amendment to come to the United States. They would be encouraged to bring them to the United States because the application period does not start for 7 months after enactment.

Spouses and children who are in the United States by the time the illegal alien applies for and receives this amnesty will also qualify. Do you see? So a person makes the application, and he has a powerful incentive to bring in his family.

Astonishingly, if the spouse or child is caught crossing the border illegally—we have to think about this in terms of our commitment to the rule of law. I ask my colleagues to think about it. If a spouse or a child is caught crossing the border trying to come into America illegally in violation of our laws, the bill actually prohibits them from being deported, as long as they make a claim they are eligible for this amnesty also.

Spouses will be given permission to work in the United States in any job, not just AgJOBS, even if they were not previously working. The amendment's flaws are not cured by the fact that the visa sunsets in 5 years. They say: Don't worry, it is only a 5-year amnesty, a 5-year legalization. I can ask seriously, I say to my colleagues and friends in the Senate, what will Congress do 5 years from now when a person has now brought their family here for 5 years, they have had 5 years in the school and it will become far more painful to confront their circumstance than if we had not created this legal status to begin with?

A real temporary worker program, which I think we can establish and is important for America, would allow workers to come for less than a year, but without their families, and to work for a period of time but will return home. That is a temporary worker program, and we could make that feasible. But, no, that is not what this is. It is 5 years with your family, digging and putting down roots, and it is not going to be anything Congress wants to wrestle with to ask them then to leave America. They will have quite a number of arguments why they should stay.

The chairman of the Appropriations Committee, Senator ROBERT BYRD, was correct when he stated in the committee markup: ''This amounts to amnesty.''

Although the amendment stopped short of giving all illegal aliens who get the 5-year amnesty visa an automatic pathway to citizenship, it specifically—get this. This really must be a great lobbying group. We need to find out who lobbies for these people. It stopped short of getting most of the illegal aliens who get the amnesty visa an automatic pathway to citizenship, but it specifically creates a pathway to citizenship for sheepherders, goat herders, and dairy workers.

Why were they picked out, please tell me? Does this make sense? They would get a 3-year visa which converts to a green card, which is a permanent resident status, and with the right within a few years to apply for citizenship.

It is most distressing, and most distressing to me at the most fundamental level. We have to think about this. This is just another attempt to take action that will eviscerate the rule of law, will eviscerate the respect we have gradually been gaining. And we could have done it a lot more, but we have made some progress in convincing the world that our border is not open, that it is a lawful system, and if they want to come to America, they must come lawfully.

I think this is bad national policy because it undermines respect for law. It says to the rest of the world: Yes, we say we have the National Guard there, we say we are building fences, we say we put more Border Patrol agents down on the border, but we really don't care. If you can just get in and work here a few days, then you are guaranteed to stay with your family, if you can get them in. Even after you apply for this 5-year amnesty, you can bring your family, and then maybe we will talk about what will happen to you 5 years from now.

I note also that one of the key points that ought not to be dismissed by the American people is that there is not one provision—not one provision—in this AgJOBS lite to further enforcement—not one—but everything there is about ignoring and erasing the consequences that naturally flow from violating the laws of America. That is most distressing.

I will take a minute to encourage my colleagues to be aware of the H–2B returning worker provisions that have been made a part of the war supplemental, also that have no business being part of that bill. It allows any person who has worked in the United States as an H–2B worker—that is a low-skilled, nonagricultural foreign worker—in the past 3 years to return for another year without counting against the 66,000 annual numerical cap.

The exemption would last through 2011, which is important, and the result could easily be a very large increase in the number of low-skilled workers who enter the United States over the next 3 years, and these are not agricultural workers. They will be competing for jobs with American workers.

Under the current law, a total of 198,000 workers will enter the United States on H–2B visas over the next 3 years, 66,000 per year. If this amendment becomes law, the number of low-skilled foreign workers invited into the United States will soar. Up to 300,000 H–2B workers will enter the United States in fiscal year 2009 alone, up to 366,000 will enter in 2010, and up to 432,000 will enter in fiscal year 2011, for a total of up to 1 million workers entering over the next 3 years. That is more than a fivefold increase over the number expected under current law. These workers will be competing with American workers in construction, food production, manufacturing industries, and any other industries of that nature in a time when we have a softening economy and job market.

Some say we have expanded those numbers to 66,000 and we have gotten up to 120,000 some-odd workers, so this is not such a huge increase. It is about 2½ times in a time when the unemployment rate is going up in America.

How did this get in? Did we have any hearings on it? Was the American community asked whether they think it is healthy? Did we have any experts talk about what an impact it might have on wages? No, it was just slipped in.

Hopefully, somehow we can move the war supplemental in a way that does not create a debate over immigration in the Senate. I don't think it is the right thing to do. This legislation should not be attached to it. I oppose the AgJOBS lite as vigorously as possible, and I believe the H–2B returning worker number is far larger than it needs to be. I have discussed trying to work out something of a reasonable nature previously, but I was surprised to see this broad piece of legislation be attached to the war supplemental.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

JUDGES

Mr. SPECTER. Mr. President, I have sought recognition to respond to a statement made earlier today by the Senator from Nevada, Mr. REID, on the judge issue. I heard about 25 or 30 minutes ago that Senator REID had spoken. I pulled together some materials and asked my staff to notify Senator REID's staff that I would be coming to the floor to speak on this issue, which is my practice when I am going to mention another Senator by name. Senator REID, in his speech, mentioned me by name, stating that I had delayed the nomination of Judge Helene White, who is a nominee to the Sixth Circuit. My preference would have been to have had notice. I have been in the Senate complex since late morning, and I invited Senator REID to come. And, perhaps he can come to the floor now. I would prefer to have this discussion face to face, but we can do it by long distance, through the record, or really short distance—Senator REID's office is right across the hall from the Chamber.

What is involved here is a very important issue, and that is the constitutional responsibility of the Senate to advise and consent on the nomination of Federal judges. Regrettably, it has been a very sore spot in Senate proceedings for the last 20 years. In the last 2 years of the Reagan administration, when Republicans controlled the White House and Democrats the Senate, nominations were delayed; the same during the last 2 years of the administration of President George H.W. Bush—again, Republicans controlled

the White House and the Democrats the Senate. Then, during the last 6 years of President Clinton, the situation was worse—exacerbated. Each step along the way, the situation has gotten worse.

I voted for President Clinton's qualified nominees and said on this floor that the Republican caucus was wrong to delay them, in a variety of ways. But, just as my caucus was wrong then, my caucus is right now. What the Democrats are doing to President Bush's nominees is wrong.

In 2005, this Chamber, this historic Chamber, almost came apart with a challenge on the traditional right of filibuster with the so-called constitutional or nuclear option. And, now we have a situation where there is, again, a great imbalance. I will not go through the statistics again as to how many more nominees President Clinton got in his 8 years contrasted with President Bush in his 8 years. Those numbers have been on the record too often. I hasten to add on the subject that you can take the statistics in many directions, but let me focus on the specific matter we have at hand.

What we have at hand is the nomination of Michigan State Court judge Helene White for the Court of Appeals for the Sixth Circuit. I do not think anybody in the Senate needs to be reminded, but some people watching on C–SPAN2—if there are any—would be well advised to understand the importance of a circuit court nomination.

The Supreme Court of the United States reviews decisions from the circuits, but very few cases are reviewed by the Supreme Court because it is very busy. And so, that panel review by three judges on the circuit court is usually the last word on a matter, unless there is a court en banc. I will not go into details, but that is when all the judges of the circuit sit in unusual circumstances. The other unusual circumstance is when the Supreme Court grants certiorari or takes the case, which again is unusual. So, opinions of far-ranging importance are decided by the courts of appeals. Very frequently, these decisions are 2-to-1 decisions, so one circuit judge has a lot of power to make important law affecting a lot of people. The interests of individuals, companies, corporations, the Government, even international affairs are decided by these judges, and these are lifetime appointments.

There has been considerable concern and debate in this body about the time the Senate has to consider these matters. Ordinarily, many weeks pass after the President submits a nomination before a nominee is voted on here. For example, Peter Keisler had a hearing, and his nomination has been pending for over 690 days. Judge Robert Conrad has waited more than 300 days for a hearing. Steve Matthews—also for the Fourth Circuit, from South Carolina—has waited over 250 days for a hearing.

Contrast that with what has happened with Judge White. Judge White was nominated to the Sixth Circuit on April 15, 2008, and had a hearing on May 7, 22 days later. Her hearing record was held open until May 14 to receive questions. Her responses to the questions are due by May 23, which is the last day of the session. If she were to be confirmed soon, she would probably break all speed records. It would probably be the equivalent of an Olympic record. I can't be sure of that because I have not checked all the records. I have only had a few minutes to prepare to come over here to make this presentation, but, what we do know is what the attitude of the Democrats was when the shoe was on the other foot.

Back in 2001, when Senator LEAHY became chairman of the Judiciary Committee, he said:

> There will be an American Bar Association background check before there is a vote.

Let the record show that there has been no American Bar Association evaluation on Judge White up to the present time, and the projection is that it will not be obtained before the Senate adjourns this week.

I ask unanimous consent to have a letter dated May 6, 2008, to Chairman LEAHY and myself printed in the RECORD following the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. In 2006, when a hearing was scheduled for Peter Keisler, 33 days after the nomination, all of the Democrats on the Judiciary Committee, signed a letter to me in my capacity as chairman asking me to ''postpone'' the hearing, citing the concern that:

> . . . the ABA has not even completed its evaluation of this nominee.

The lack of an ABA rating did not seem to bother the Democrats this time. They ran roughshod right over that practice and held the hearing 22 days after the nomination was submitted before it was possible for the ABA to complete its rating. We did not have the benefit of the ABA evaluation, which is important before the hearing.

There have been exceptions on district court nominees. I suppose you could go through the record and find exceptions. You can do that on about everything. But, with a circuit court nominee who is controversial, where there are questions about her qualifications, it is obviously a very bad practice.

When the objections were raised to the timing on the Keisler nomination, Senator LEAHY made the point to me as chairman—through the letter from all of the Democrats—that we should not be scheduling hearings for nominees before the committee has received their ABA ratings. I would note that the ABA rating for Keisler was received prior to his hearing. So what is good for the goose is, apparently, not good for the gander—bad practice for Keisler equals good practice for Judge White.

Here is what Senator SCHUMER had to say about scheduling Keisler's hearing within 33 days:

> So, let me reiterate some of the concerns we expressed about proceeding so hastily on this nomination. First, we have barely had time to consider the nominee's record. Mr. Keisler was named to a seat 33 days ago, so we are having this hearing with astonishing and inexplicable speed. The average time from nomination to hearing for the last 7 nominees to that court is several times that long.

A practice decried in very strong terms by Senator SCHUMER seems to be okay for Judge White.

Without going into very great detail, let the record show that Judge White has a very extensive record on the state court—many cases to consider and analyze—contrasted with the record of Mr. Keisler, who had never been on the court. But, the mathematics of the situation is conclusive.

Now Judge White's nomination comes to the floor in the context of an agreement having been reached by the leaders of the Republican and Democratic Parties, breaking a stalemate which existed for a long time.

Mr. President, I ask unanimous consent for an additional 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. The agreement, as accurately stated by Senator REID earlier today, was in this form:

> I cannot guarantee three confirmations because that outcome would depend on factors beyond my control. Still, Senator LEAHY and I have worked hard to move three appellate nominees this month. Judge Agee is one of the three. The next two nominees in line are Sixth Circuit nominees, Raymond Kethledge and Helene White of Michigan.

Well, if Judge White and Raymond Kethledge and even Judge Agee were the only circuit court nominees available, that comment would have some relevance, but there are others who have been waiting a long time. Peter Keisler, as I noted before, had a hearing but has been waiting on the committee docket for over 690 days. He could be confirmed easily in the time allotted. When the arrangement was made on April 15, Judge Robert Conrad, who had been waiting for a hearing for over 300 days, could have been processed and confirmed. Steve Matthews, who had been waiting for over 250 days, could have been processed and confirmed.

So, Senator REID had plenty of alternatives to deal with. He did not have to move to Judge White and force this phenomenal effort on a rush to judgment. Senator REID sought to rebut that fact in his statement saying:

> No one presumed to instruct Senator Specter about the sequence of nominations during the years he served as Chairman of the Judiciary Committee.

Well, let me point out that no one had to instruct Senator SPECTER on comity, on courtesy, on consultation with the Democrats. As Chairman, not

only did I never try to ram anything down the Democrats' throat, I went out of my way to see to it that they were consulted, that their views were taken into account, and that they were followed in many important considerations.

The White House wanted to have the Roberts confirmation process start on August 28. I consulted with Senator LEAHY, then ranking member. He thought that was a bad time, and we discussed it. I came to the conclusion—and candidly, would have had it in any event—but consulted with him before going back to the White House and saying: It cannot be done. It is going to be after Labor Day. If you bring back Senators during a recess, before children go back to school after Labor Day, it is a bad practice.

The hearing was scheduled in a way which comported with what Senator LEAHY had to say. Nobody consulted me about the scheduling of Judge White or the other two judges. Next, the White House wanted Justice Alito confirmed before Christmas. He had a big record; he had been on the bench for 15 years. I think Judge White has been on the bench at least comparable time, maybe even longer. It was unrealistic to go through his record in that time frame.

I said to the White House and to the President personally: It can't be done realistically.

I said: Mr. President, you have the great advantage of never having been a Senator.

And, as a result, those hearings were held in January. Again, before the decision was made, I consulted with Senator LEAHY extensively. He thought it was a bad idea to confirm before Christmas, and I listened. Here again, absent Senator LEAHY's view, which I was pretty sure about before I consulted him, I would have had the same conclusion, but he was consulted, and consulted in advance.

So, when Senator REID says: No one presumed to instruct Senator SPECTER about the sequence of nominations when he was chairman, he is right, but then no one had to.

Then we come to the part where Senator REID mentions me, which, as I said, was without advanced notice.

He said:

> Unfortunately Republican Senators on the Judiciary Committee have delayed consideration of Judge White. They badgered her at her confirmation hearing and then followed up by asking a total of 73 separate written questions, including some that will be particularly time consuming.

Well, I am not going to take the time to go through the many hearings that I have sat through on that committee for the last 28 years, but the questioning of Judge White was firm, polite, professional, and much less intense than many hearings—the Alito hearings, for example, or from some of the Democratic Senators who questioned Roberts. She was not badgered. Let anybody take a fair reading or review of the video, and that can be easily confirmed.

Then Senator REID goes on to say:

> Every Senator has this right to ask questions of a nominee, but the number and nature of the questions posed to Judge White suggest that the Republicans intended to delay the nomination.

There is not a scintilla of fact to back that up. The need to have time to consider this nomination in this time sequence is obviously apparent on its face.

Senator REID goes on:

> In addition, Republicans have insisted that the nomination not move forward until Judge White's ABA review is complete.

Well, having an ABA rating is very fundamental and very basic procedure for every judge.

Senator REID goes on to say again:

> That is their right. But in this case, it is ironic they would make that request since she was rated qualified by the ABA 10 years ago when Republicans blocked her nomination from moving forward.

Well, that argument is not so specious that it answers itself. A 10-year-old evaluation obviously has to be updated.

Now, when Senator REID objects to the questions we asked her, I take issue. We asked her the questions because her answers to the questionnaire were incomplete. She was given a questionnaire shortly after nomination on April 15. It was received by the committee on April 25. One of the questions in the questionnaire was to give ''copies'' of speeches given.

And it further said:

> If you do not have a copy of the speech or a transcript of the tape recording, please give the name and address of the group before whom the speech was given, the date of the speech and the subject matter.

Her response was:

> Over the years, I have participated as a member of various panel discussions at bench, bar or State or local bar association conferences and meetings. None of these have been recorded or transcribed to my knowledge. I have not retained any notes or outlines.

But, she has not answered the question as to whom she spoke to or before. That was the question asked, and it is a relevant question and is the standard question for everyone.

Next, she was asked to provide unpublished opinions when she was reversed. Now, that is a very important question. When a judge is reversed, that is a particular area worthy of inquiry. And, again, she did not answer the question by providing the opinions. She certainly is in the best position to have those opinions and speeches.

Now, how can we confirm a judge where we do not have an opportunity to review all the information requested by the Senate questionnaire? And a good bit of this is not Judge White's fault. A good bit of this is the fault of the scheduling, which was determined by the Democrats.

So here we have a situation where there was a commitment, albeit with limitations, to confirm three circuit judges before Memorial Day, and today Senator REID comes to the floor, with adjournment later this week for the Memorial Day recess, and he is in effect saying: The commitment will not be completed due to circumstances beyond my control, beyond the Democrats' control. It is all the fault of the Republicans.

Well, I ask fair-minded Americans, and Americans are fair-minded, whether this is appropriate. I have sought to avoid any characterizations or any of the vituperative language which has characterized this body in modern times, as we have had so much bickering which the American public is so sick and tired of. I have tried to avoid that with a strict factual analysis as to how the schedule proposed by Senator REID is an unconscionable rush to judgment, is in violation of the standing practices and procedures of the Committee and the Senate, does not give an opportunity for a proper evaluation as to what her record is, and why she should not be nominated for a lifetime position on this state of the record.

There has been a lot of talk about what the consequences will be of the tactics of the Democrats overall. That is going to be a question for the Republican caucus.

At this point, I make only one commitment, and that is, to present it to the Republican caucus tomorrow. I thank my distinguished colleague from Florida for waiting. I would say patiently waiting, but only he can characterize his waiting.

EXHIBIT 1

AMERICAN BAR ASSOCIATION,
Idaho Falls, ID, May 6, 2008.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Hon. ARLEN SPECTER,
Ranking Minority Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY AND SENATOR SPECTER: On behalf of the American Bar Association Standing Committee on the Federal Judiciary, I write to express our concern that you have decided to proceed with the confirmation hearings of Helene N. White to be U.S. Circuit Judge for the Sixth Circuit and Stephen Joseph Murphy III to be U.S. District Judge for the Eastern District of Michigan, currently scheduled for May 7, before completion of the Standing Committee's evaluation of these nominees. Our evaluations provide a unique window into the nominee's professional strengths and weaknesses, and offer members of the Judiciary Committee and the Senate a unique perspective on the nominees that otherwise would not be available. You and your colleagues have noted at numerous confirmation hearings that the Standing Committee's evaluation is important to what you do.

As you know, barring unusual circumstances, the expectation is that the Standing Committee will complete its evaluation and submit its rating within 35 days of receiving a nominee's personal data questionnaire from the Department of Justice and a waiver from the nominee that allows a review of important records. A supplemental evaluation of a nominee whose nomination has been withdrawn or returned and then subsequently resubmitted by the President may require less time to complete.

The Standing Committee's investigations of these two nominees are under way. Under our normal timetable, it would be reasonable for you to expect to receive our evaluations by the close of this month. It is unfortunate that, during the confirmation hearing, your committee members will not have the benefit of the Standing Committee's comprehensive review.

Despite these developments, I assure you that the Standing Committee will continue its work evaluating both nominees and will make every effort to expedite the process without compromising the thoroughness or quality of its evaluation. This is consistent with our previous practice when, on rare occasions, we have been confronted with a similar situation. Our evaluation of each nominee will be submitted to your committee and to the Administration as soon as reasonably possible. We sincerely hope that the Judiciary Committee will defer further consideration of, and that the Senate will take no action on, these two nominees until our evaluations are submitted and can help inform your critical deliberations.

It is our belief that by evaluating the integrity, professional competence and judicial temperament of each nominee, the ABA helps to ensure confirmation of the best qualified individuals for lifetime appointments to the federal bench. The ABA Standing Committee on the Federal Judiciary looks forward to continuing to work with you in pursuit of that goal.

Sincerely,

C. TIMOTHY HOPKINS
Chair.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Florida.

HEALTH CARE

Mr. NELSON of Florida. Madam President, and, of course, to my distinguished colleague from Pennsylvania, this Senator certainly did not mind waiting because it was a matter of great concern. And it was obvious to this Senator in the elevator that the Senator from Pennsylvania had a matter of great weightiness that was something that he wanted to share with the Senate.

I shall always defer to the eminent scholar of the Senate, and I am glad that the Senator has spoken, and spoken his mind. This Senator would like to speak his mind on a subject that is heavy on the hearts of the American people; that is, what is the future of their health care.

It is clear people are concerned because health care has become something that dominates someone's thinking, if they do not have the assurance of having that health care. The number of insured has reached 47 million people. It looks like that number is going to increase, particularly as we are going into an economic downturn that plagues us and seems it will continue to do so. In the meantime, the American people also know health care costs are increasing at a rate much higher than their average paycheck. So that worries the American people.

It is a fact that Americans spend more money on health care than any other country in the world. Sometimes we don't have as good results. For example, one recent study says life expectancy among certain groups of women in the United States is actually going down due to the prevalence of growing chronic disease.

In Florida, the problems are no less severe: 19 percent of all children in Florida are uninsured, one of the highest rates in the country; 25 percent of all nonelderly Floridians are uninsured, a quarter of the nonelderly Floridians, those not covered on Medicare. Of course, the people are getting concerned because we in Washington are unable, between the executive and the legislative branches, to strike a solution.

The long and short of it is, there are some solutions that are starting to percolate to the top. There is one that has 7 Democrats and 7 Republicans, 14 of us, bipartisan cosponsors. What it does is, it insures everybody universal coverage, the 47 million people who now do not have health insurance who, by the way, get health care because they get it at the most expensive place when they get sick, which is the emergency room, and they get it at the most expensive time, because they haven't had preventive care, when the sniffles turn into pneumonia so the treatment is all the more expensive, so the most expensive place at the most expensive time. Guess who all is paying for it. The rest of us are paying for it because they do not pay and do not have the health insurance that goes into the overall absorption of those costs.

The rest of us, who are fortunate to have health insurance, pay in the rates we pay for the care we get. That is one important principle of what this group of 14 bipartisan Senators, led by Senator WYDEN and Senator BENNETT, have come out with.

The next important principle of this proposal for completely revamping and reforming the health insurance delivery system is that you let the principle of insurance work for you. That is, to get the largest possible group—in other words, millions of people—over which to spread the health risk. So if you spread that health risk over millions of people who are representative of the whole population, young and old, sick and well, you are going to bring down the per-unit cost for the premium per policyholder. That is in significant contrast to the fact of a small group, where the actuarial soundness in order to set the premiums for a small group—let's say 5 or 10 people, just a few lives over which to spread that health risk—is extremely high.

That is one of the reasons why in taking that principle of insurance, you have to decouple from saying that insurance should be organized on the basis of an employer. If an employer is large, with 100,000, a couple hundred thousand lives, then, in fact, you have a large population over which to spread the health risk. However, if the employer is a mom-and-pop grocery store, with only a handful of lives, you see the prohibitive cost of that insurance and, therefore, what is happening is, employers are at the point that they are not able to afford it anymore. More and more people of those 47 million in this country who are not insured, in fact, are adding to those rolls.

So what this bipartisan bill, called the Healthy Americans Act, is attempting to do is to say: We are going to bring in all those people out there who are uninsured so we spread the base, and we are going to organize the private marketplace upon which private insurance companies will compete for that business. We are going to organize it ideally around millions of people. The way the bill is structured, it organizes it around the State. But if that State is a small one, there is nothing that would prohibit that State from joining with several other small States to create a sizable population that the health insurance companies would, in fact, compete for.

Then, the next principle in this insurance is that the consumer will have choice. The basic underpinning of the minimal value of a health insurance policy is the same kind we have. We, as Federal employees, have a minimal health benefit package from the Federal Government. We spread our insurance cost over 9 million Federal employees and Federal retirees. Therefore, we can get the economies of scale and let the Federal size work for us. So, too, the reorganization in this bill, the Healthy Americans Act, to allow the greater numbers to bring down that per-unit cost or the cost, in other words, of what the individual policyholder makes.

It is a very complicated system, how you transition out from an employer. There is a certain amount that the employer has to pay into the system, according to the size and the payroll. Individuals would have the responsibility of paying for their health insurance. They would pay for that by deductions from the Federal income tax, just like withholding tax is deducted now. By decoupling from their employer's insurance, if they chose to do that—and if they wanted to stay with the employer, they could, but by decoupling, they would not get less money because there would be the so-called cashing out of the employee, so the employee would get the same financial benefit from the employer they got before, when the employer was paying for their health insurance premiums. It is all very complicated.

The Congressional Budget Office has done a cost analysis and says under this law the Federal Government will break even financially in the year 2014, when it is implemented, if it were to first be implemented starting this year. So it basically requires the responsibility on the individual, the employers, and the Government to come together to make this funding for health care work. You get the efficiencies of competition in the private marketplace. You get the economy of scale. That economy of scale is not only brought in by expanding the pools

over which that insurance is applied but expanding those pools even more by bringing in the 47 million uninsured.

The bill emphasizes prevention to improve the health of Americans. It certainly improves their access to care, once they get sick, and also access to care by giving them preventive incentives to go in and do the kind of things with medical advice before they would ever get sick in the first place.

There are things in the bill that, as we continue to discuss it, certainly I wish to see. I wish to make absolutely sure that those currently covered under the Children's Health Insurance Program, which would be folded into this, as well as Medicaid, which would be folded into the program, I wish to make sure they receive affordable insurance of quality comparable to or better than what they currently receive. There are other concerns that will come up from time to time.

There is no one who has filed this legislation who thinks it is going to be enacted or seriously taken up this year, but there has to be a starting point. A great responsibility will rest on the shoulders of the next President because the American people are not only crying out for health care reform, they are demanding it. Because the cost of that health care is extending beyond their reach, it is incumbent upon us to be visionary and creative. It is certainly incumbent upon the next President to be visionary and creative and cooperative, cooperative with the Congress so we can forge a solution to help America solve her health insurance problem.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICAN ASSOCIATION OF INTELLECTUAL & DEVELOPMENTAL DISABILITIES

Mr. DURBIN. Madam President, I am pleased today to join the Illinois chapter of the American Association of Intellectual & Developmental Disabilities in recognizing recipients of the 2008 Direct Service Professional Award. The recipients are being honored for their outstanding efforts to enrich the lives of people with developmental disabilities in Illinois.

These awardees have displayed humanity and professionalism in their work. They are an inspiration to the people they work with every day, and they are an inspiration to me as well. They have set a fine example of community service for all Americans to follow.

These honorees spend more than half of their time at work in direct, personal involvement with their clients. They are not primarily managers or supervisors. They are direct service workers providing care for people with special needs. They do their work every day with little public recognition, providing assistance that is unknown and unnoticed except to the people they spend their days with.

It is my honor and privilege to recognize the Illinois recipients of AAIDD's 2008 Direct Service Professional Award: Robin Armond, Terry Ber, Vanessa Bradley, Debora Buchanan, Betty Carr, Eleanor Dewhart, Dawn Elliot, Barrett Girad, Jeri Von Holten, Cindy Jennings, Leonard Maniece, Adam Mize, Pat Murphy, Janet Newlin, Melissa Parnell, Hilary Pacha, Rhonda Risley, Sharon Watson, Denise Williams, Kimberly Woosley, and Delia Zavala.

I know my fellow Senators will join me in congratulating the winners of the 2008 Direct Service Professional Award. I commend their dedication and join the AAIDD in thanking them for their service.

SUPPLEMENTAL APPROPRIATIONS

Mr. BYRD. Madam President, I ask unanimous consent to have printed in the RECORD an explanatory statement approved by the Committee on Appropriations accompanying three amendments to the House amendments to the Senate amendment to H.R. 2642, concerning emergency supplemental appropriations for fiscal years 2008–2009, which the Committee on Appropriations authorized the chairman to offer on behalf of the committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATORY STATEMENT SUBMITTED BY SENATOR ROBERT C. BYRD, CHAIRMAN OF THE SENATE COMMITTEE ON APPROPRIATIONS, REGARDING THE 2008 SUPPLEMENTAL APPROPRIATIONS AMENDMENTS TO AMENDMENTS OF THE HOUSE OF REPRESENTATIVES TO THE SENATE AMENDMENT TO H.R. 2642

Following is an explanation of the committee authorized amendments of the Senate to the amendments of the House to the amendment of the Senate to H.R. 2642, the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2008, including disclosure of congressionally directed spending items as defined in rule XLIV of the Standing Rules of the Senate.

Section 10008 of the Senate amendment specifies that this explanatory statement shall have the same effect with respect to the allocation of funds and implementation of this Supplemental Appropriations Act as if it were a report by the Committee on Appropriations to accompany a bill reported to the Senate from that Committee.

BACKGROUND

PURPOSE OF THE BILL

The Committee recommendations address the President's requests contained in the 2008 Budget Appendix, transmitted on February 5, 2007 (H. Doc. 110–3), budget estimate No. 5, transmitted on July 31, 2007 (H. Doc. 110–54), and budget estimate No. 6, transmitted on October 23, 2007 (H. Doc. 110–68). The recommendations also address the following estimates submitted this year: the 2009 Budget Appendix, transmitted on February 4, 2008 (H. Doc. 110–84), and budget estimate No. 6, transmitted on May 2, 2008 (H. Doc. 110–108).

The Committee recommends three amendments to be offered in response to the amendments of the House to the amendment of the Senate to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes. H.R. 2642 is the bill chosen by the House to address the President's supplemental requests for 2008 and to address ''bridge'' funding for 2009 overseas deployments and other contingencies, including military operations in Afghanistan and Iraq.

AMENDMENT #1

TITLE I

MILITARY CONSTRUCTION, INTERNATIONAL, AND OTHER SECURITY MATTERS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

2008 appropriation to date	$1,210,864,000
Supplemental estimate:	
2008	350,000,000
2009	395,000,000
Committee recommendation:	
2008	850,000,000
2009	395,000,000

The Committee recommends a total of $850,000,000, to remain available until expended for Public Law 480 Title II Grants for fiscal year 2008. The Committee provides $350,000,000, as requested, for the urgent humanitarian needs identified by the administration. Further, the Committee provides an additional $500,000,000 for unanticipated cost increases for food and transportation to be made available immediately.

In addition, because the need for urgent humanitarian food assistance and continuing volatility of food and transportation costs are expected to continue into fiscal year 2009, the Committee provides a total of $395,000,000, as requested, to be made available beginning October 1, 2008.

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

OFFICE OF THE INSPECTOR GENERAL

2008 appropriation to date	$70,603,000
2008 supplemental estimate	
Committee recommendation	4,000,000

The Committee recommends $4,000,000 for the Inspector General to continue reviewing the Federal Bureau of Investigation's use of National Security Letters [NSL] and section 215 orders for business records.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

2008 appropriation to date	$745,549,000
2008 supplemental estimate	4,093,000
Committee recommendation	1,648,000

The Committee recommends $1,648,000 to provide litigation support services for the Special Inspector General for Iraqi reconstruction to investigate and prosecute corruption in reconstruction efforts.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

2008 appropriation to date	$1,754,822,000

2008 supplemental estimate	5,000,000
Committee recommendation	5,000,000

The Committee recommends $5,000,000 for the U.S. Attorneys for litigation expenses associated with terrorism prosecutions in the United States.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

2008 appropriation to date	$864,219,000
2008 supplemental estimate	14,921,000
Committee recommendation	18,621,000

The Committee recommends $18,621,000 for the United States Marshals Service. Of the funds provided, $7,951,000 is for U.S. Marshals to provide enhanced security at high-threat terrorist trials in the United States: $3,700,000 is to provide increased court and witness security in Afghanistan Court Security and Witness Security programs, protective equipment and training for U.S. Marshals, and assist with the extradition of individuals who finance terrorism through the illegal sale of opium and heroin; and $6,970,000 is for Adam Walsh Act enforcement.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

2008 appropriation to date	$6,493,489,000
Supplemental estimate:	
2008	101,122,000
2009	39,062,000
Committee recommendation:	
2008	164,965,000
2009	82,600,000

The Committee recommends $164,965,000 for the Federal Bureau of Investigation [FBI].

Counterterrorism Operations.—The recommendation includes $139,965,000 to support counterterrorism and counter-proliferation activities and equipment, terrorism intelligence gathering efforts, and law enforcement training in Iraq and Afghanistan. The recommendation also supports the Render Safe Mission to prevent and dismantle Weapons of Mass Destruction [WMD] on U.S. soil; for IED initiatives, including bomb technician equipment and Hazardous Devices School secure training; and National Security Letter audits.

Forensics Backlog.—The recommendation includes $20,000,000 for FBI labs to reduce forensics backlogs caused by the dramatic increase in Improvised Explosive Device [IED] evidence and other forensics evidence from battlefield operations in Iraq and Afghanistan.

Fraud Investigations.—The recommendation includes $5,000,000 to increase the FBI's capacity to investigate contract fraud related to U.S. operations in Iraq and Afghanistan.

Fiscal Year 2009 Bridge.—The recommendation includes $82,600,000 in bridge funding for the FBI to maintain the operations described above for the first 6 months of fiscal year 2009.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

2008 appropriation to date	$1,857,569,000
2008 supplemental estimate	8,468,000
Committee recommendation	22,666,000

The recommendation includes $22,666,000 for the Drug Enforcement Administration to further its narco-terrorism initiative and Operation Breakthrough, to conduct financial investigations and to support intelligence activities, such as signals intelligence, to assist the Government of Afghanistan's counter-narcotics and narco-terrorism programs.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

2008 appropriation to date	$984,097,000
2008 supplemental estimate	4,000,000
Committee recommendation	4,000,000

The Committee recommends $4,000,000 for the Bureau of Alcohol, Tobacco, Firearms and Explosives to support the ATF's role in the global war on terror in Iraq and Afghanistan, where ATF agents provide technical assistance to the military in identifying and dismantling IEDs.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

2008 appropriation to date	$5,050,440,000
2008 supplemental estimate	9,100,000
Committee recommendation	9,100,000

The Committee recommends $9,100,000 for the Bureau of Prisons to monitor communications of incarcerated terrorists, collect intelligence, and disseminate relevant intelligence to other law enforcement agencies.

CHAPTER 3

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

OVERVIEW

The administration's request for fiscal year 2008 emergency supplemental funding for military construction associated with the wars in Iraq and Afghanistan encompasses a wide range of initiatives both in the Central Command [CENTCOM] Area of Responsibility and within the United States. Several of these requests, including additional funding for child development center construction at U.S. military installations and funding for the construction of Counter-Improvised Explosive Devices [CIED] training ranges at U.S. bases, were not included in the President's October 2007 supplemental budget amendment, but were subsequently proposed by the administration. Although not part of the official budget request, and therefore not reflected as such in the tables accompanying this report, the Committee finds merit in many of the proposals and has recommended funding for them.

Iraq and Afghanistan.—The administration's request for military construction funding in Iraq, Afghanistan, and other locations in the Central Command Area of Responsibility totals $1,590,950,000, of which $976,150,000—61 percent—is for construction in Iraq alone.

Given the pressing need for infrastructure investment within the United States, the Committee has closely examined the entire CENTCOM construction request, with particular attention to Iraq. The Committee is mindful of the ongoing operational requirements and continued security concerns facing U.S. military personnel in Iraq, and has recommended funding for projects that reflect these priorities. With the exception of funding for certain items, such as landfills and incinerators, intended to expedite the closure of U.S. bases in Iraq, the Committee has continued to limit military construction funding to those bases in Iraq that are intended to be enduring locations.

The Committee remains strongly opposed to the permanent basing of U.S. military forces in Iraq, and has again included bill language prohibiting the obligation of funds appropriated for military construction in Iraq until the Secretary of Defense certifies to the Committee that none of the funds are to be used to establish permanent military bases in Iraq. The Committee is also concerned with the impact that a future Status of Forces Agreement with Iraq could have on the current strategic plans and associated construction program to consolidate U.S. forces in Iraq into eight enduring locations. In an effort to provide a blueprint on which to establish a basing agreement, the Secretary of Defense is directed to provide to the Committee, no later than 30 days after enactment of this act, an updated Master Plan for U.S. basing in Iraq, including an inventory of installations that have been closed; those that are scheduled to close and the timeline for their closure; and a finite list of enduring locations describing the mission, military construction requirements, and projected U.S. military population of these locations.

Child Development Center Initiative.—Recognizing the importance of quality child care resources for military families, the Committee has been very supportive of accelerating the construction of child development centers on military installations. In the Fiscal Year 2008 Military Construction, Veterans Affairs and Related Agencies Appropriations Act, Congress added more than $100,000,000 over the President's budget request to fund 13 additional child development centers at U.S. military bases. The Committee, therefore, supports the Department's proposal to use emergency supplemental funding to advance the construction of 20 child development centers currently programmed for construction in fiscal years 2010 and 2011. The Committee further recommends that the 11 child development centers included in the President's fiscal year 2009 budget request also be advanced into the supplemental funding bill to ensure that the most urgently needed centers are among the first to be funded.

Army Barracks Improvements.—The Committee is deeply concerned about the deplorable conditions that have been uncovered in some permanent party Army barracks, including those which house soldiers returning from the wars in Iraq and Afghanistan. The Army created a Permanent Party Barracks Modernization Program in 1994 to eliminate inadequate barracks. However, this program is not projected to be completed until 2013. Given this timeline, it is unacceptable that the Army has allowed existing permanent party barracks to fall into such abject disrepair. This is not the way the Committee expects the Army to treat its soldiers returning from combat. While many of the repairs and upgrades to existing barracks can be accomplished with Sustainment, Restoration, and Modernization [SRM] funds, the Committee believes that additional Military Construction funds should be allocated to address urgent major renovations and barracks upgrades. The Committee therefore recommends an appropriation of $200,000,000 for the Army to undertake major improvements to existing barracks and accelerate the construction of new barracks. The funding is provided subject to the development of an expenditure plan to be submitted to the Committees on Appropriations of both Houses of Congress.

MILITARY CONSTRUCTION, ARMY

2008 appropriation to date	$3,927,893,000
2008 supplemental estimate	1,440,750,000
Committee recommendation	1,170,200,000

The Committee recommends $1,170,200,000 for Military Construction, Army, instead of $1,440,750,000 as requested. In addition to funding projects directly in support of the wars in Iraq and Afghanistan, the recommendation includes $137,200,000, to remain available until September 30, 2012, for the construction of 15 child development centers at U.S. Army installations as proposed by the administration. Funds for Military Construction, Army, are provided as follows:

[In thousands of dollars]

Installation	Project title	Budget request	Committee recommendation	Requested by
Alaska: Fort Wainwright	Child Development Center		17,000	Administration
California: Fort Irwin	Child Development Center		11,800	Administration
Colorado: Fort Carson	Soldier Family Assistance Center	8,100	8,100	The President
Colorado: Fort Carson	Child Development Center		8,400	Administration
Georgia: Fort Gordon	Child Development Center		7,800	Administration
Georgia: Fort Stewart	Soldier Family Assistance Center	6,000	6,000	The President
Hawaii: Schofield Barracks	Child Development Center		12,500	Administration
Kansas: Fort Riley	Transitioning Warrior Support Complex	50,000	50,000	The President
Kentucky: Fort Campbell	Soldier Family Assistance Center	7,400	7,400	The President
Kentucky: Fort Campbell	Child Development Center		9,900	Administration
Kentucky: Fort Knox	Child Development Center		7,400	Administration
Louisiana: Fort Polk	Soldier Family Assistance Center	4,900	4,900	The President
New York: Fort Drum	Warrior in Transition Facilities	38,000	38,000	The President
North Carolina: Fort Bragg	Child Development Center		8,500	Administration
Oklahoma: Fort Sill	Child Development Center		9,000	Administration
Texas: Fort Bliss	Child Development Center		5,700	Administration
Texas: Fort Bliss	Child Development Center		5,900	Administration
Texas: Fort Bliss	Child Development Center		5,700	Administration
Texas: Fort Hood	Warrior in Transition Unit Operations Facilities	9,100	9,100	The President
Texas: Fort Hood	Child Development Center		7,200	Administration
Texas: Fort Sam Houston	Child Development Center		7,000	Administration
Virginia: Fort Lee	Child Development Center		7,400	Administration
Afghanistan: Bagram Air Base	New Roads, Bagram Airfield	27,000	27,000	The President
Afghanistan: Bagram Air Base	Ammunition Supply Point	62,000	62,000	The President
Afghanistan: Bagram Air Base	Power Plant	41,000	41,000	The President
Afghanistan: Bagram Air Base	Bulk Fuel Storage & Supply, Ph 3	23,000	23,000	The President
Afghanistan: Bagram Air Base	Bulk Fuel Storage & Supply, Ph 4	21,000	21,000	The President
Afghanistan: Bagram Air Base	CIED Road—Rte Alaska	16,500	16,500	The President
Afghanistan: Bagram Air Base	Aircraft Maintenance Hangar	5,100	5,100	The President
Afghanistan: Ghazni	Rotary Wing Parking	5,000	5,000	The President
Afghanistan: Kabul	Consolidated Compound	36,000	36,000	The President
Afghanistan: Various Locations	CIED Road—Rte Connecticut	54,000	54,000	The President
Iraq: Camp Adder	Power Plant	39,000		The President
Iraq: Camp Adder	Petro Oil & Lubricant Storage	10,000	10,000	The President
Iraq: Camp Adder	Waste Water Treatment & Collection	9,800	9,800	The President
Iraq: Camp Adder	Multi Class Storage Warehouse	17,000		The President
Iraq: Camp Adder	Entry Control Point	4,850		The President
Iraq: Camp Adder	Convoy Support Center Relocation, Ph 2	39,000	39,000	The President
Iraq: Camp Adder	CORP Support Center Phase 3		13,200	Administration
Iraq: Al Asad	Power Plant	40,000		The President
Iraq: Al Asad	Landfill Construction	3,100	3,100	The President
Iraq: Al Asad	Urban Bypass Road	43,000	43,000	The President
Iraq: Al Asad	Hot Cargo Ramp	18,500	18,500	The President
Iraq: Al Asad	South Airfield Apron (India Ramp)	28,000	28,000	The President
Iraq: Camp Anaconda	Landfill Construction	6,200	6,200	The President
Iraq: Camp Anaconda	Power Plant	39,000		The President
Iraq: Camp Anaconda	Urban Bypass Road	43,000		The President
Iraq: Camp Anaconda	Hazardous Waste Incinerator	4,300	4,300	The President
Iraq: Camp Constitution	Juvenile Theater Internment Facility	11,700	11,700	The President
Iraq: Camp Cropper	Brick Factory	9,500	9,500	The President
Iraq: Fallujah	Landfill Construction	880	880	The President
Iraq: Fallujah	Incinerators		5,500	Administration
Iraq: Camp Marez	Landfill Construction	880	880	The President
Iraq: Mosul	Urban Bypass Road	43,000	43,000	The President
Iraq: Q-West	Power Plant	26,000		Administration
Iraq: Q-West	North Entry Control Point	11,400	11,400	The President
Iraq: Q-West	Perimeter Security Upgrade	14,600	14,600	The President
Iraq: Camp Ramadi	Landfill Construction	880	880	The President
Iraq: Camp Ramadi	Incinerator		6,200	Administration
Iraq: Scania	Entry Control Point	5,000	5,000	The President
Iraq: Scania	Water Storage Tanks	9,200	9,200	The President
Iraq: Camp Speicher	Military Control Point	5,800	5,800	The President
Iraq: Camp Speicher	Power Plant	39,000		The President
Iraq: Camp Speicher	Landfill Construction	5,900	5,900	The President
Iraq: Camp Speicher	Waste Water Treatment & Collection	9,800		The President
Iraq: Camp Speicher	Rotary Wing Parking Apron	49,000		The President
Iraq: Camp Speicher	Aviation Navigation Facilities	13,400	13,400	The President
Iraq: Camp Taqqadum	Landfill Construction	880	880	The President
Iraq: Tikrit	Urban Bypass Road	43,000		The President
Iraq: Camp Victory	Landfill Construction	6,200	6,200	The President
Iraq: Camp Victory	Entry Control Point	5,000		The President
Iraq: Camp Victory	Level 3 Hospital	13,400	13,400	The President
Iraq: Camp Victory	Waste Water Treatment & Collection	9,800	9,800	The President
Iraq: Camp Victory	Water Supply, Treatment & Storage, Ph 3	13,000	13,000	The President
Iraq: Camp Victory	Water Treatment & Storage, Ph 2	18,000	18,000	The President
Iraq: Camp Warrior	Landfill Construction	880	880	The President
Iraq: Various Locations	Facilities Replacement, Phase I	36,000		The President
Iraq: Various Locations	Facilities Replacement, Phase II	36,000		The President
Iraq: Various Locations	Overhead Cover	30,000	30,000	The President
Iraq: Various Locations	Overhead Cover, Ph 4	105,000	105,000	The President
Kuwait: Camp Arifjan	Communications Center	30,000	30,000	The President
Worldwide: Various Locations	Planning & Design	78,800	78,800	The President
TOTAL		1,440,750	1,170,200	

Various Locations, Iraq.—The Army requested a total of $183,000,000 for construction of five powerplants in Iraq which the congressional defense authorizing committees declined to authorize in Public Law 110–181, the National Defense Authorization Act for Fiscal Year 2008. The Committee endorses the position of the authorizers, that the construction of powerplants at these locations is premature and of primarily long-term benefit, and does not recommend funding for them. The Committee also recommends no funding for several additional Army requests for Iraq, including a warehouse and helicopter parking apron at Camp Speicher, totaling $66,000,000, and $72,000,000 for several projects, including a gym, dining hall, base exchange, and housing units, intended to upgrade Camp Delta in southeastern Iraq to an enduring Contingency Operating Base [COB]. The Committee questions the justification for increasing the number of enduring U.S. military bases in Iraq from eight to nine at a time when the goal of U.S. military and administration officials is to reduce the level of U.S. troops in Iraq as security conditions permit. The Committee also notes that the original description of the request, included in the February 4, 2007, budget submission, was for Facilities Replacements at various existing COBs, and it was not until May 5, 2008, that the Central Command provided Congress with the revised justification data for projects requested to establish a new COB. Based on the process, assumptions, and justification data on which these requests are based, the Committee believes they are premature and do not meet the standard of urgent requirements.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

2008 appropriation to date	$2,187,837,000
2008 supplemental estimate	237,505,000
Committee recommendation	300,084,000

The Committee recommends $300,084,000 for Military Construction, Navy and Marine Corps, instead of $237,505,000 as requested. The recommendation includes $29,299,000, to remain available until September 30, 2012, for the construction of two child development

centers at U.S. Navy and Marine Corps installations, as proposed by the administration. Funds for Military Construction, Navy and Marine Corps, are provided as follows:

[In thousands of dollars]

Installation	Project title	Budget request	Committee recommendation	Requested by
California: China Lake	JIEDDO Battle Courses		7,210	Administration
California: Camp Pendleton	Armory—5th Marine Regiment	10,890	10,890	The President
California: Camp Pendleton	Bachelor Quarters & Armory	34,970	34,970	The President
California: Camp Pendleton	Bachelor Quarters & Dining Facility	24,390	24,390	The President
California: Camp Pendleton	Company Headquarters—Military Police	8,240	8,240	The President
California: Camp Pendleton	Explosive Ordinance Detachment—Ops	13,090	13,090	The President
California: Camp Pendleton	Intelligence Surveillance Reconnaissance	1,114	1,114	The President
California: Camp Pendleton	Armory—Regimental & Battalion HQ	5,160	5,160	The President
California: Camp Pendleton	Armory—Intelligence Battalion	4,180	4,180	The President
California: Camp Pendleton	JIEDDO Battle Courses		9,270	Administration
California: Point Mugu	JIEDDO Battle Courses		7,250	Administration
California: San Diego	Child Development Center		12,299	Administration
California: Twentynine Palms	Regimental Headquarters Addition	4,440	4,440	The President
California: Twentynine Palms	JIEDDO Battle Courses		11,250	Administration
Florida: Eglin AFB	JIEDDO Battle Course Additions		780	Administration
Mississippi: Gulfport	JIEDDO Battle Courses		6,570	Administration
North Carolina: Camp LeJeune	Maintenance/Operations Complex 2	43,340	43,340	The President
North Carolina: Camp LeJeune	JIEDDO Battle Courses		11,980	Administration
North Carolina: Camp LeJeune	Child Development Center		16,000	Administration
Virginia: Yorktown	JIEDDO Battle Courses		8,070	Administration
Djibouti: Camp Lemonier	Network Infrastructure Expansion	6,270	6,270	The President
Djibouti: Camp Lemonier	Dining Facility	20,780		The President
Djibouti: Camp Lemonier	Headquarters Facility	29,710		The President
Djibouti: Camp Lemonier	Water Production	19,140	19,140	The President
Djibouti: Camp Lemonier	Full Length Taxiway		15,490	Administration
Djibouti: Camp Lemonier	Fuel Farm		4,000	Administration
Djibouti: Camp Lemonier	Western Taxiway		2,900	Administration
Worldwide: Various Locations	Planning & Design	11,791	11,791	The President
TOTAL		237,505	300,084	

Camp Lemonier, Djibouti.—In accordance with the action of the congressional defense authorizing committees, and in keeping with concerns the Committee has expressed in the past regarding uncertainty over the future role of Camp Lemonier in the Africa Command [AFRICOM], the Committee does not recommend funding two projects at Camp Lemonier requested by the Navy, including a permanent construction dining facility and headquarters building, totaling $50,549,000. However, the Committee recognizes that basic utility and operational ground infrastructure is required to execute the current expeditionary mission at Camp Lemonier, and therefore recommends funding three projects that were authorized but not funded in the regular fiscal year 2008 military construction appropriations act. These projects include two taxiways and a fuel farm totaling $22,290,000.

MILITARY CONSTRUCTION, AIR FORCE

2008 appropriation to date	$1,149,277,000
2008 supplemental estimate	305,000,000
Committee recommendation	361,900,000

The Committee recommends $361,900,000 for Military Construction, Air Force, instead of $305,000,000 as requested. The recommendation includes $37,600,000, to remain available until September 30, 2012, for the construction of three child development centers at U.S. Air Force installations, as proposed by the administration. Funds for Military Construction, Air Force, are provided as follows:

[In thousands of dollars]

Installation	Project title	Budget request	Committee recommendation	Requested by
California: Beale AFB	Child Development Center		17,600	Administration
Florida: Eglin AFB	Child Development Center		11,000	Administration
New Jersey: McGuire AFB	JIEDDO Training Facility		6,200	Administration
New Mexico: Cannon AFB	Child Development Center		8,000	Administration
Afghanistan: Bagram Air Base	Strategic Ramp	43,000	43,000	The President
Afghanistan: Bagram Air Base	Parallel Taxiway, Phase II	21,400	21,400	The President
Afghanistan: Bagram Air Base	East Side Helo Ramp	44,400	44,400	The President
Afghanistan: Kandahar	ISR Ramp	26,300	26,300	The President
Iraq: Balad Air Base	Helicopter Maintenance Facilities	34,600	34,600	The President
Iraq: Balad Air Base	Foxtrot Taxiway	12,700	12,700	The President
Iraq: Balad Air Base	Fighter Ramp	11,000	11,000	The President
Kyrgyzstan: Manas Air Base	Strategic Ramp	30,300	30,300	The President
Oman: Masirah Air Base	Expeditionary Beddown Site	6,300		The President
Qatar: Al Udeid	Facilities Replacement	40,000		The President
Qatar: Al Udeid	Close Air Support Parking Apron		60,400	Administration
Worldwide: Various Locations	Planning & Design	35,000	35,000	The President
TOTAL		305,000	361,900	

Masirah Air Base, Oman, and Al Udeid, Qatar.—The Committee does not recommend funding for two projects requested by the Air Force, including $6,300,000 for an expeditionary beddown site at Masirah Air Base and $40,000,000 for facilities replacement at Al Udeid. These were among the projects that the congressional defense authorizing committees did not authorize in the 2008 National Defense Authorization Act.

MILITARY CONSTRUCTION, DEFENSE-WIDE

2008 appropriation to date	$1,599,404,000
2008 supplemental estimate	27,600,000
Committee recommendation	27,600,000

The Committee recommends $27,600,000 for Military Construction, Defense-Wide, as requested. The funds are provided as follows:

[In thousands of dollars]

Installation	Project title	Budget request	Committee recommendation	Requested by
Qatar: Al Udeid	Special Operations Forces Logistics Storage Warehouse	6,600	6,600	The President
Texas: Fort Sam Houston	TRICARE Management Activity, Burn Rehab Unit	21,000	21,000	The President
TOTAL		27,600	27,600	

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

2008 appropriation to date	$293,129,000
2008 supplemental estimate	11,766,000
Committee recommendation	11,766,000

The Committee recommends $11,766,000 for Family Housing Construction, Navy and Marine Corps, as requested. The funds are provided as follows:

[In thousands of dollars]

Installation	Project title	Budget request	Committee recommendation	Requested by
California: Camp Pendleton	Family Housing Improvements	10,692	10,692	The President
California: Twentynine Palms	Family Housing Improvements	1,074	1,074	The President
TOTAL		11,766	11,766	

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

2008 appropriation to date	$7,235,591,000
2008 supplemental estimate	415,910,000
Committee recommendation	1,202,886,000

The Committee recommends $1,202,886,000 for the Department of Defense Base Closure Account 2005, instead of $415,910,000 as requested. The funds include $415,910,000 to expedite construction of the Walter Reed National Military Medical Center at Bethesda Naval Hospital, Maryland. The Committee recommends an additional $786,976,000 for the Base Closure Account 2005. This amount, along with the $7,235,591,000 appropriated in Public Law 110–161, fully funds the construction requirements included in the administration's base closure request for fiscal year 2008.

DEPARTMENT OF VETERANS AFFAIRS

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

2008 appropriation to date	$1,605,000,000
2008 supplemental estimate	
Committee recommendation	100,000,000

The Committee recommendation includes $100,000,000 for the Education Service at the Veterans Benefits Administration for new administrative costs associated with the Post-9/11 Veterans' Educational Assistance Act of 2008.

INFORMATION TECHNOLOGY SYSTEMS

2008 appropriation to date	$1,966,465,000
2008 supplemental estimate	
Committee recommendation	20,000,000

The Committee recommendation includes $20,000,000 for modernization and enhancements of information technology systems related to the administration of the Post-9/11 Veterans' Educational Assistance Act of 2008.

CONSTRUCTION, MAJOR PROJECTS

2008 appropriation to date	$1,069,100,000
2008 supplemental estimate	
Committee recommendation	437,100,000

The Committee recommendation includes $437,100,000 for Construction, Major Projects, for the Department of Veterans Affairs [VA].

Polytrauma Center Initiative.—The nature of combat in Iraq and Afghanistan has resulted in new patterns of polytraumatic injuries and disabilities requiring specialized intensive rehabilitation and high coordination of care. The VA health care system, through its polytrauma network, continues to provide significant expertise in the treatment and rehabilitation of both active duty and separated Operation Enduring Freedom and Operation Iraqi Freedom veterans suffering from polytraumatic injuries. Operating under a national memorandum of agreement with the Department of Defense [DOD], VA polytrauma rehabilitation centers have provided treatment and rehabilitation care to severely injured combat personnel requiring polytrauma inpatient rehabilitation.

The Department of Veterans Affairs currently operates four Level 1 polytrauma rehabilitation centers within existing VA hospital facilities. In fiscal year 2007, Congress provided emergency funding for the VA to establish a fifth Level 1 polytrauma rehabilitation center. The care that the VA is providing military personnel wounded in combat is exceptional. However, space in the existing facilities is generally inadequate, with cramped quarters and treatment facilities scattered throughout hospital campuses. These inefficiencies are particularly difficult for patients with mobility issues, compromised immune systems, and those suffering from psychological wounds. In an effort to accelerate the VA's planned expansion and consolidation of polytrauma rehabilitation centers on existing hospital campuses as outlined in the department's February 2008 Five Year Capital Plan, the Committee recommends providing $437,100,000 to fully fund the design and construction of these crucial projects.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1301. Provides an additional appropriation to Military Construction, Army, for the acceleration and completion of child development center construction.

SEC. 1302. Provides an additional appropriation to Military Construction, Navy and Marine Corps, for the acceleration and completion of child development center construction.

SEC. 1303. Provides an additional appropriation to Military Construction, Air Force, for the acceleration and completion of child development center construction.

SEC. 1304. Provides an additional appropriation to Military Construction, Army, for the acceleration of barracks improvements at Department of the Army installations.

SEC. 1305. Prohibits the Secretary of Veterans Affairs from collecting certain debts owed to the United States by members of the Armed Forces and veterans who die as a result of an injury incurred or aggravated on active duty in a combat zone.

CHAPTER 4

SUBCHAPTER A—SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2008

INTRODUCTION

The budget request totals $6,547,408,000 in emergency supplemental funds for fiscal year 2008, and the State, Foreign Operations Appropriations Act, 2008 (Public Law 110–161) provided $1,473,800,000 for immediate requirements. The Committee recommendation for Department of State and Foreign Operations totals $5,254,608,000, which is $181,000,000 above the pending budget request.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

2008 appropriation to date	$5,322,719,000
2008 supplemental estimate	1,708,008,000
Committee recommendation	1,413,700,000

The budget request included $2,283,008,000 for Diplomatic and Consular Programs, of which $575,000,000 was appropriated in the State, Foreign Operations Appropriations Act, 2008 (Public Law 110–161) for operations and security at the United States Embassy in Iraq.

The Committee recommends an additional $1,413,700,000 for Diplomatic and Consular Programs, which is $294,308,000 below the pending request. Within the amount provided, $212,400,000 is for worldwide security protection. Funds for diplomatic and consular programs are to be allocated as follows:

DIPLOMATIC AND CONSULAR PROGRAMS

[In thousands of dollars]

Activitiy	Pending request	Committee recommendation	Change from request
Iraq Diplomatic Operations	1,545,608	1,095,000	−450,608
Afghanistan—Operations and Worldwide Security Protection	162,400	195,200	+32,800
Pakistan—Operations		7,500	+7,500
Tibet		5,000	+5,000
Western Hemisphere Travel Initiative		1,000	+1,000
Worldwide Security Protection		50,000	+50,000
Civilian Workforce Initiative		60,000	+60,000
Public Diplomacy		5,000	+5,000
Total, Diplomatic and Consular Programs	1,708,008	1,413,700	−294,308

Afghanistan.—The Committee recommends $195,200,000, which is $32,800,000 above the request, for necessary expenses for diplomatic and security operations in Afghanistan. Of this amount, $162,400,000 is for enhanced security operations, including additional high threat protection teams, increased overhead cover and physical security measures, replacement of armored vehicles, and local guard service. In addition, $14,000,000 is for the establishment of a Department of State-managed air transport capability in Afghanistan for Department of State and United States Agency for International Development [USAID] personnel, primarily for medical evacuation and other security-related operations. Finally, $18,800,000 is for support of operations and personnel for Provincial Reconstruction Teams [PRTs] in Afghanistan.

Iraq.—The Committee recommends $1,095,000,000 for the diplomatic and security operations of the United States Embassy in Iraq, which is $450,608,000 below the pending request. The cost of operations of the United

States Embassy in Iraq totals $2,086,000,000 for fiscal year 2008 including $1,095,000,000 provided in this act, $575,000,000 provided as bridge funding in Public Law 110–161 and $416,000,000 in funds carried over from prior year appropriations. Of this amount, nearly $900,000,000 is for supporting security requirements for diplomatic and development personnel in Iraq.

The Committee provides funding for Embassy operations, security, logistics support, information technology and operations of PRTs. Congress has provided an additional $196,543,000 since fiscal year 2006 for additional facilities requirements identified by the Department of State, as follows: extend the perimeter wall; construct a dining facility; construct additional housing; construct a tactical operations center for Diplomatic Security; construct a static guard camp; and construct overhead cover. The actual cost of building the New Embassy Compound [NEC] has reached a total of $788,543,000 to date.

The number of permanent and temporary personnel assigned to Iraq, with the exception of USAID, should be decreased to accommodate all personnel within the NEC and any improvements which can be made with previously appropriated funds. USAID will play a critical role in assisting the Government of Iraq in effectively allocating its budgetary resources.

The additional $43,804,000 requested for follow-on projects for the NEC in Baghdad is not included. At least $77,027,000 in prior year funding programmed for follow-on projects is available for obligation and these funds should be used to provide secure housing for a smaller number of personnel.

None of the funds provided under this heading in this act shall be made available for follow-on projects, other than the proposed funding for overhead cover. The Department should include a detailed plan for the use of funds for follow-on projects as part of the spending plan required by this act.

Due to an extended accreditation and verification process and the addition of follow-on projects, occupancy of the NEC offices and housing has been delayed. This rigorous process to address and validate whether the NEC was constructed to code and contract specifications was supported. Now that the process is complete, occupancy of the offices and housing should proceed without delay in order to provide the maximum protection to United States personnel.

The benefits of co-location of the Departments of State and Defense in the NEC is recognized. However, the proposed New Office Building and the Interim Office Building reconfigurations are projected to delay occupancy of NEC offices by up to 1 year. Given the difficult security environment in Baghdad, this lengthy delay is not acceptable. The Departments of State and Defense are expected to consult with the Committees on Appropriations on options for moving forward with limited co-location plans in the most accelerated, secure, and cost effective manner. Any future construction in Iraq shall be subject to the Capital Security Cost Sharing Program, in the same manner as all other embassy construction projects worldwide.

There is a concern that private security contractors have been utilized without the necessary authority, oversight, or accountability. The Department of State is directed to provide a report to the Committees on Appropriations not later than 45 days after enactment of this act on the implementation status of each of the recommendations of the October 2007 report of the Secretary of State's Panel on Personal Protective Services. The Department of State is encouraged to aggressively review security procedures and seek the necessary authority to ensure that increased security is achieved with effective oversight and accountability.

Pakistan.—The Committee recommends $7,500,000 for operations, security, and personnel engaged in diplomatic and economic development activities in the Federally Administered Tribal Areas along the Pakistan and Afghanistan border.

Sudan.—The Committee provides resources to support the diplomatic mission in Sudan including the United States Special Envoy for Sudan.

Tibet.—The Committee recommends up to $5,000,000 for the establishment of a U.S. Consulate in Lhasa, Tibet, and directs that the Department of State shall not consent to the opening of a consular post in the United States by the People's Republic of China until such time as such United States Consulate is established.

The Committee directs that not later than 90 days after enactment of this act, the Secretary of State shall submit a report to the Committees on Appropriations detailing efforts taken by the Department of State to establish a U.S. Consulate in Lhasa, Tibet and a description of actions by the Government of the Peoples Republic of China to undermine support for Tibet in the United States, including in the media, academia, and political arenas.

Local Guard Forces—Worldwide Security Protection.—The Committee recommends $50,000,000 above the request for worldwide security protection. The amount provided is available to restore 100 positions in the global diplomatic security guard force that were redirected to Iraq to address urgent security requirements for United States personnel elsewhere in the world.

Civilian Workforce Initiative.—The Committee recommends $60,000,000 to increase the civilian diplomatic capacity of the Department of State to meet the increasing and complex demands of diplomacy in the 21st century. Within the total, $30,000,000 is for the initial development and deployment of a civilian capacity to respond to post-conflict stabilization and reconstruction challenges and $30,000,000 is to strengthen capabilities of the United States diplomatic corps and promote broader engagement with the rest of the world, including expanding training and enhanced interagency collaboration.

The Committee provides funds to replace Foreign Service positions worldwide which were previously moved to Iraq and to increase the number of positions participating in critical needs foreign language training. The Department of State has transferred approximately 300 Foreign Service positions from embassies around the world to Iraq and to associated language training, leaving key posts understaffed. These funds are to be used to support United States foreign policy in priority, understaffed regions, particularly South and East Asia, the Western Hemisphere, and Africa.

Funds made available for the civilian stabilization initiative are for the Active and Standby Response Corps portion of the initiative and to enhance operations of the Office of the Coordinator for Reconstruction and Stabilization. In addition to the funds provided to the Department of State, $25,000,000 is appropriated in this act under the heading, ''Operating Expenses of the United States Agency for International Development'' to implement the USAID portion of the civilian stabilization initiative. The funding request for the Civilian Response Corps will be considered as part of the fiscal year 2009 appropriations process and none of the funds provided in this act are to be used to implement the Civilian Response Corps portion of the initiative.

Western Hemisphere Travel Initiative.—The Committee recommends not less than $1,000,000 to expand public outreach efforts related to implementation of the Western Hemisphere Travel Initiative [WHTI]. With WHTI implementation occurring as early as June 2009, there is concern with the lack of a comprehensive, coordinated plan between the Department of State, the Department of Homeland Security, and the United States Postal Service to broadly disseminate information to the traveling public concerning the final WHTI implementation requirements at the Nation's land and seaports. The Department of State is encouraged to provide significantly increased outreach to border communities, including through radio, print media, and additional passport fairs.

Buying Power Maintenance Account.—The Committee provides authority to transfer funds available in this act, and in a prior act, to the Buying Power Maintenance Account in accordance with section 24 of the State Department Basic Authorities Act, to manage exchange rate losses in fiscal year 2008.

Public Diplomacy.—The Committee recommends $5,000,000 for the Office of Public Diplomacy and Public Affairs to expand new media for targeted Arabic language television programs for the purpose of fostering cultural, educational, and professional dialogues through indigenous Arabic language satellite media.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

2008 appropriation to date	$33,733,000
2008 supplemental estimate	.....
Committee recommendation	12,500,000

The Committee recommends an additional $12,500,000 for Office of Inspector General at the Department of State, which is $12,500,000 above the pending request. Of the total, $5,000,000 is to enhance the Department of State Inspector General's oversight of programs in Iraq and Afghanistan, $2,500,000 is for operations of the Special Inspector General for Iraq Reconstruction [SIGIR], and $5,000,000 is for operations of the Special Inspector General for Afghanistan Reconstruction [SIGAR].

The Inspectors General of USAID, the Department of State, the Department of Defense, the Government Accountability Office, SIGIR, and SIGAR, to the maximum extent practicable, should coordinate and deconflict all activities related to oversight of assistance provided for Iraq and for Afghanistan security, stability, and reconstruction. Oversight of funding provided in this act and prior acts for assistance for Iraq through the foreign operations accounts shall be primarily the responsibility of the SIGIR. The Department of State OIG shall have responsibility for oversight of funding provided for diplomatic operations and facilities. The Department of State or the USAID Office of Inspector General should be designated as the lead for any investigations or audits of worldwide programs as they relate to the specific programs in Iraq or Afghanistan.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

2008 appropriation to date	$501,347,000
2008 supplemental estimate	.....
Committee recommendation	10,000,000

The Committee recommends an additional $10,000,000 for Educational and Cultural Exchange Programs. These funds shall be used to expand educational and cultural exchange opportunities through youth programs, especially to learn English, and undergraduate and graduate academic exchange programs, including with community colleges, in order to reach a greater number of underserved, disadvantaged young people in Africa and the Western Hemisphere.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

2008 appropriation to date	$1,425,574,000
2008 supplemental estimate	160,000,000
Committee recommendation	76,700,000

The Committee recommends an additional $76,700,000 for urgent Embassy security, construction, and maintenance costs, which is $83,300,000 below the request. The funds are to construct 300 secure apartments and a secure office building, including the necessary perimeter security, utility, and dining facilities, for United States Mission staff in Afghanistan. Currently, there are a small number of permanent construction apartments and the majority of diplomatic and Mission personnel live in structures with limited protection. Additional funds for this purpose are provided in subchapter B.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

2008 appropriation to date	$1,343,429,000
2008 supplemental estimate	53,000,000
Committee recommendation	66,000,000

The Committee recommends an additional $66,000,000 for Contributions to International Organizations, of which, $53,000,000 is for United States contributions to the U.N. Assistance Mission in Afghanistan and the U.N. Assistance Mission in Iraq, as requested. Funding is also provided to meet fiscal year 2008 assessed dues to organizations whose missions are critical to protecting United States national security interests, including the North Atlantic Treaty Organization, the International Atomic Energy Agency, and the Organization for the Prohibition of Chemical Weapons.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

2008 appropriation to date	$1,690,517,000
2008 supplemental estimate	333,600,000
Committee recommendation	383,600,000

The budget request included $723,600,000 for contributions for International Peacekeeping Activities, of which $390,000,000 of funds designated as an emergency was provided in the State, Foreign Operations Appropriations Act, 2008 (Public Law 110–161) for the United States contribution to the United Nations-African Union hybrid peacekeeping mission to Darfur [UNAMID].

The Committee recommends an additional $383,600,000 for assessed costs to U.N. peacekeeping operations. Within the total under this heading, not less than $333,600,000 is provided for UNAMID, equal to the request. The Committee recommends $50,000,000 to meet fiscal year 2008 assessed dues for the international peacekeeping missions to the Democratic Republic of the Congo, Côte d'Ivoire, Haiti, Lebanon, Liberia, and southern Sudan.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

The Committee recommends an additional $3,000,000 for International Broadcasting Operations to continue increased broadcasting to Tibet.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL DISASTER ASSISTANCE

2008 appropriation to date	$429,739,000
2008 supplemental estimate	
Committee recommendation	240,000,000

The budget request included $80,000,000 for International Disaster Assistance. The State, Foreign Operations Appropriations Act, 2008 (Public Law 110–161) provided $110,000,000 for emergency humanitarian requirements.

The Committee recommends $240,000,000 for International Disaster Assistance, which is $240,000,000 above the pending request. These funds should be used to respond to urgent humanitarian requirements worldwide, including in Burma, Bangladesh, China and countries severely affected by the international food crisis.

The Committee directs USAID to urgently and substantially increase food assistance for Haiti to address critical food shortages and malnutrition. Preventing hunger and combating poverty in Haiti should be a USAID priority.

The Committee also includes funds under the heading ''Development Assistance'' in subchapter B to help address the international food crisis. Programs should address both rural and urban food requirements.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

2008 appropriation to date	$650,656,000
2008 supplemental estimate	41,000,000
Committee recommendation	149,500,000

The budget request included $61,800,000 for Operating Expenses of the United States Agency for International Development, of which $20,800,000 was provided in the State, Foreign Operations Appropriations Act, 2008 (Public Law 110–161) for operations in Iraq.

The Committee recommends an additional $149,500,000 for Operating Expenses of the United States Agency for International Development.

Of the funds provided under this heading, the Committee recommends $41,000,000 to continue support for security needs in Iraq and Afghanistan, which is the same as the request. In addition, $29,000,000 is included to increase support for staffing, security, and operating needs in Afghanistan and Sudan, and $19,500,000 in Pakistan.

The Committee also recommends $25,000,000 to support the development and deployment of a civilian capacity to respond to post-conflict stabilization and reconstruction needs. Funds made available for the civilian stabilization initiative are for the Active and Standby Response Corps portion of the initiative and none of the funds provided in this act may be used to develop the Civilian Response Corps. Additional funding for this initiative is provided in the ''Diplomatic and Consular Programs'' account for the Department of State portion of the initiative.

In addition, the Committee recommends $35,000,000 to enable USAID to hire above attrition in fiscal year 2008. The administration's request for fiscal year 2009 includes $92,000,000 for hiring 300 USAID foreign service officers as part of a 3-year initiative. Funding provided in this act is intended to support the hiring of at least 100 additional Foreign Service officers in fiscal year 2008 in order to begin rebuilding the capacity of the Agency to carry out its mission. USAID is directed to consult with the Committees on Appropriations on the use of these funds and to recruit mid-career personnel. As USAID seeks to strengthen its workforce, USAID is encouraged to consult with the Department of Defense on ways to benefit from the experience of retiring officers, including establishment of a transition program.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

OFFICE OF THE INSPECTOR GENERAL

2008 appropriation to date	$37,692,000
2008 supplemental estimate	
Committee recommendation	4,000,000

The Committee recommends an additional $4,000,000 for the United States Agency for International Development Office of Inspector General to support increased oversight of programs in Iraq and Afghanistan.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

2008 appropriation to date	$2,974,959,000
2008 supplemental estimate	2,009,000,000
Committee recommendation	1,962,500,000

The budget request included $2,217,000,000 for Economic Support Fund [ESF], of which $208,000,000 was provided in the State, Foreign Operations Appropriations Act, 2008 (Public Law 110–161) for emergency requirements in the West Bank and in North Korea, as requested.

The Committee recommends an additional $1,962,500,000 for ESF, which is $46,500,000 less than the request. Of the funds requested under ESF, $75,000,000 is provided under the heading Democracy Fund for political development programs for Iraq. Funds are to be allocated as follows:

ECONOMIC SUPPORT FUND

[In thousands of dollars]

Country and Region	Committee recommendation
Afghanistan	899,000
Bangladesh	25,000
Central African Republic	2,000
Central America	40,000
Chad	4,000
Democratic Republic of the Congo	15,000
Iraq	398,000
Jordan	150,000
Kenya	12,000
Nepal	7,000
North Korea	53,000
Pakistan	60,000
Philippines	15,000
Sri Lanka	6,000
Sudan	45,000
Thailand	2,500
Uganda	22,000
Vietnam	2,000
West Bank	200,000
Zimbabwe	5,000
Total	1,962,500

Iraq.—The Committee recommends $398,000,000 for Iraq, which is $399,000,000 below the request. The sums provided should enable the Department of State and USAID to continue programs in Iraq through the end of fiscal year 2008 and into the first two quarters of fiscal year 2009.

After providing more than $45,000,000,000 to help rebuild Iraq, the United States should seek to reduce bilateral assistance levels, and correspondingly to reduce the number of Department of State personnel involved in the reconstruction effort who are located in Iraq.

Funds provided for Iraq are to be allocated as follows:

IRAQ PROGRAMS

[In thousands of dollars]

Activity	Pending fiscal year 2008 request	Committee recommendation	Change from request
Provincial Reconstruction Teams (PRTs)	165,000	138,000	−27,000
Provincial Reconstruction Development Councils	100,000	85,000	−15,000
Local Governance Program	65,000	53,000	−12,000
Community Stabilization Program (CSP)	155,000	100,000	−55,000
Community Action Program (CAP)		75,000	+75,000
Infrastructure Security Protection for Oil, Water and Electricity	70,000		−70,000
Operations and Maintenance of Key USG-Funded Infrastructure	134,000	10,000	−124,000
Iraqi-American Enterprise Fund	25,000		−25,000
National Capacity Development	248,000	70,000	−178,000
Marla Fund		5,000	+5,000
Total	797,000	398,000	−399,000

—*Community Action Program [CAP]*.—The Committee recommends $75,000,000 for continued support for the Community Action Program.

—*Community Stabilization Program [CSP]*.—The Committee recommends $100,000,000 for the CSP, which is $55,000,000 below the request. Recent findings of a March 18, 2008 USAID Inspector General audit (E–267–08–001–P) of possible fraud and misuse of some CSP funds are of concern. Therefore the Committee withholds funding until the Secretary of State certifies and reports that USAID is implementing recommendations contained in the audit to ensure proper use of funds.

—*Enterprise Fund*.—The Committee recommends no funding for an enterprise fund for Iraq.

—*Infrastructure Security Protection for Oil, Water, and Electricity*.—The Committee does not include funding for these functions which should be supported by the Government of Iraq.

—*Marla Ruzicka Iraqi War Victims Fund*.—The Committee recommends $5,000,000 for the Marla Ruzicka Iraqi War Victims Fund for continued assistance for Iraqi civilians who suffer losses as a result of the military operations.

—*National Capacity Development [NCD]*.—The Committee provides $70,000,000 for NCD, which is $178,000,000 below the request. The Government of Iraq should assume increasing responsibility for the cost of these activities.

—*Operations and Maintenance of Key United States Government-funded Infrastructure*.—The Committee recommends $10,000,000 for Operations and Maintenance of key United States Government-funded infrastructure, which is $124,000,000 below the request. These functions should be funded by the Government of Iraq and this act includes funding to allow the United States to provide technical assistance and training. In addition, the Committee recommendation conditions the funds on the signing and implementation of an asset transfer agreement between the United States and Iraq.

Afghanistan.—The Committee recommends an additional $899,000,000 for Afghanistan, which is $65,000,000 above the request.

USAID is directed to review its reconstruction efforts in Afghanistan; focus its assistance, including capacity building, through local Afghan entities; give greater attention to accountability and monitoring to minimize corruption; and emphasize programs which directly improve the economic, social, and political status of Afghan women and girls. Funds provided for Afghanistan are to be allocated as follows:

AFGHANISTAN PROGRAMS

[In thousands of dollars]

Activity	Pending fiscal year 2008 request	Committee recommendation	Change from request
Roads	329,000	200,000	−129,000
Power	175,000	150,000	−25,000
Trade and Investment	5,000	7,000	+2,000
Rural Development/Alternative Livelihoods		65,000	+65,000
Governance and Capacity Building	275,000	165,000	−110,000
National Solidarity Program		85,000	+85,000
2009 Elections	100,000	70,000	−30,000
Provincial Reconstruction Teams [PRTs]/Provincial Governance		50,000	+50,000
Health and Education	50,000	95,000	+45,000
Civilian Assistance Program		10,000	+10,000
NATO/ISAF Post-Operations Humanitarian Relief Fund		2,000	+2,000
Total	834,000	899,000	+65,000

—*Civilian Assistance*.—The Committee recommends $10,000,000 for USAID's Afghan Civilian Assistance Program to continue assistance for civilians who have suffered losses as a result of the military operations, and $2,000,000 for the NATO/ISAF Post-Operations Humanitarian Relief Fund.

—*Power*.—The Committee recommends $150,000,000 for power, which is $25,000,000 below the request. The request includes funding for gas and diesel power projects and there is a concern that diesel generators are costly to maintain and will exacerbate Kabul's already heavily polluted air. The completion of the north-south transmission line to enable Afghanistan to purchase electricity from its northern neighbors for distribution to other areas of the country is supported. Funding for the Northern Electrical Power System or the Shebergan Gas-Fired Plant is not included. The World Bank should play a larger role in financing such infrastructure projects. It is noted that Afghanistan has considerable potential for small hydro and solar power development to service Afghanistan's many remote communities that have no other access to electricity. The Committee directs that not less than $15,000,000 of the funds be used for renewable energy projects in rural areas.

—*Roads*.—The Committee recommends $200,000,000 for roads, which is $129,000,000 below the request.

Bangladesh.—The Committee recommends $25,000,000 for assistance for Bangladesh for cyclone recovery and reconstruction assistance.

Central America.—The Committee recommends $40,000,000 for Central America in fiscal year 2008, in addition to funds otherwise made available for assistance for countries in Central America for a program to be called the ''Economic and Social Development Fund for Central America'', to be administered by USAID in consultation with the Department of State. The purpose of the program is to promote economic and social development and good governance in low-income areas, including rural communities, that are vulnerable to drug trafficking and related violence and organized crime. These funds should support programs that emphasize community initiatives and public-private partnerships. United States funds should be matched with contributions from other public and private sources to the maximum extent practicable. USAID is directed to consult with the Committees on Appropriations prior to the obligation of these funds.

Democratic Republic of the Congo.—The Committee recommends $15,000,000 for assistance for eastern Democratic Republic of the Congo for urgent conflict mitigation and recovery programs and for programs relating to sexual violence against women and girls. Of this amount, $1,000,000 is to establish and support a training center for health workers who provide care and treatment for victims of sexual violence, and $2,000,000 is for training military and civilian investigators, prosecutors, and judges to bring the perpetrators of such crimes to justice.

Jordan.—The Committee recommends $150,000,000 for economic assistance to Jordan, which is $150,000,000 above the request. The Government of Jordan remains a key ally and has played a leading role in supporting peace initiatives in the Middle East. Programming of these funds should be done in consultation with the Government of Jordan and refugee relief organizations and should be used to meet the needs of Iraqi refugees. The Committee directs the Secretary of State, after consultation with the Government of Jordan, the United Nations, and

international organizations and non-governmental organizations with a presence in Iraq, to submit a report to the Committees on Appropriations not later than 45 days after enactment detailing (1) short and medium term options the United States and other countries and organizations could pursue to assist Iraqis in Jordan maintain their educational and vocational skills and earn income; and (2) longer-term options that the United States and the Government of Jordan can take to address the economic, social, and health needs of refugees from Iraq, including the feasibility of extending temporary residence status for Iraqis registered with the United Nations High Commissioner for Refugees.

Kenya.—The Committee recommends $12,000,000 for assistance for Kenya for political, ethnic and tribal reconciliation activities.

Nepal.—The Committee recommends $7,000,000 for assistance for Nepal to strengthen democracy and support the peace process, including the demobilization and reintegration of ex-combatants, and for economic development programs in rural communities affected by conflict.

North Korea.—The Committee recommends up to $53,000,000 for energy-related assistance for North Korea in support of the goals of the Six-Party talks, which is the same as the request. This is in addition to the $53,000,000 appropriated in division J of Public Law 110–161.

Pakistan.—The Committee recommends $60,000,000 for assistance for Pakistan, which is the same as the request.

The Philippines.—The Committee recommends $15,000,000 for assistance for the Philippines for programs to further peace and reconciliation in the southern Philippines, and recognizes the shared interest between the United States and the Philippines in ending terrorism in this region.

Sri Lanka.—The Committee recommends $6,000,000 for assistance for Sri Lanka to be provided through USAID to support economic development programs in the eastern region of Sri Lanka to solidify recent gains against the Liberation Tigers of Tamil Eelam. These funds should be used to assist Tamil and Muslim minorities in Sri Lanka.

Sudan.—The Committee recommends $45,000,000 for assistance for Sudan to support election-related activities.

Thailand.—The Committee recommends $2,500,000 for assistance for Thailand to address economic and social development needs in southern Thailand. The Department of State is directed to consult with the Committees on Appropriations prior to the obligation of these funds.

Uganda.—The Committee recommends $22,000,000 for assistance for northern Uganda. These funds should be used to support economic development, governance, assistance for war victims, and reintegration of ex-combatants.

Vietnam.—The Committee recommends $2,000,000 for assistance for Vietnam to continue environmental remediation and health activities at former United States military sites in Vietnam that are contaminated by dangerously high levels of dioxin. The Department of State is directed to consult with the Committees on Appropriations on the uses of these funds.

West Bank.—The Committee recommends not more than $200,000,000 for economic assistance for the West Bank, which is the same as the request. The Department of State is directed to provide a report to the Committees on Appropriations not later than 90 days after the enactment of this act on how United States economic assistance for the West Bank supports the larger Palestinian Reform and Development Plan as well as a description of other donor support of this plan. The report should describe how assistance from the United States and other donors will improve conditions in the West Bank, including through job creation and housing programs.

Zimbabwe.—The Committee recommends $5,000,000 for assistance for Zimbabwe to support political reconciliation activities.

DEPARTMENT OF STATE

DEMOCRACY FUND

2008 appropriation to date	$162,672,000
2008 supplemental estimate	.....
Committee recommendation	76,000,000

The Committee recommends an additional $76,000,000 for Democracy Fund programs, requested under the heading ''Economic Support Fund'', to be made available as follows:

Chad.—The Committee recommends $1,000,000 for democracy activities in Chad.

Iraq.—The Committee recommends $75,000,000 for democracy activities in Iraq. These funds are intended to be made available through nongovernmental organizations, including the National Endowment for Democracy and the United States Institute for Peace.

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

2008 appropriation to date	$553,926,000
2008 supplemental estimate	734,000,000
Committee recommendation	470,000,000

The Committee recommends an additional $470,000,000 for International Narcotics Control and Law Enforcement activities in Afghanistan, Iraq, Mexico, Central America, Haiti, the Dominican Republic, and the West Bank, which is $264,000,000 below the request.

Iraq.—The Committee recommends $85,000,000 for Iraq for justice and rule of law programs, which is $74,000,000 below the request. Funding for prison construction is not included.

Central America.—The Committee recommends $50,000,000 for assistance for Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama, and an additional $10,000,000 for Haiti and the Dominican Republic under the Merida Initiative. Impunity within the military and police forces of several of these countries is of concern, and their justice systems are corrupt and ineffective. The Secretary of State is directed to submit a report, prior to the obligation of funds, on mechanisms to ensure adequate monitoring of these funds.

The Committee directs the Secretary of State to submit a report not more than 90 days after enactment of this act detailing efforts by the Guatemalan Government to propose and promote legislation to raise the necessary revenues in Guatemala to fund comprehensive judicial and law enforcement reform.

The omission of Haiti and the Dominican Republic from the request for the Merida Initiative makes it more likely that these vulnerable countries would become increasingly favored transit routes for drug traffickers. The Committee recommends $5,000,000 for Haiti and $5,000,000 for the Dominican Republic to support counternarcotics, border security, anti-corruption and rule of law programs.

Mexico.—The Committee recognizes there is a shared responsibility between the United States and Mexico to combat drug trafficking and related violence and organized crime. The Committee provides $350,000,000 to support programs to enable the Government of Mexico to respond to these threats in accordance with the rule of law, a portion of which is funded with unobligated balances from the Iraq Relief and Reconstruction Fund.

The Committee also recognizes that corruption and impunity within Mexico's military and police forces are pervasive. Additionally, Mexican law enforcement and intelligence agencies have frequently persecuted legitimate groups for engaging in peaceful dissent. Recommendations of the National Human Rights Commission are often ignored and investigations of violations of human rights by Mexican military and police forces rarely result in convictions. The recommendation requires the Secretary of State to report to the Committees on Appropriations prior to the obligation of funds that mechanisms are in place to ensure proper vetting of recipients of United States assistance. Additionally, the Committee provides that a comprehensive database for vetting military and police forces shall be established by the United States Embassy in Mexico City and continually updated.

There is concern with the failure to investigate and prosecute the police officers responsible for human rights violations, including rape and sexual violence against women, at San Salvador Atenco on May 3–4, 2006, and in Oaxaca between June and December 2006. These and other such violations by members of the Mexican military and police forces have been documented and require thorough, credible and transparent investigation and prosecution by the Mexican Attorney General. The State and Federal investigations into the October 27, 2007, killing in Oaxaca of American citizen Bradley Will have been flawed and the Secretary of State is directed, not later than 45 days after enactment of this act and 120 days thereafter, to submit a report to the Committees on Appropriations detailing progress in conducting a thorough, credible, and transparent investigation to identify the perpetrators of this crime and bring them to justice.

One of the benefits of the Merida initiative is that the wireless radio equipment and identification systems being provided will enable the Government of Mexico to more closely collaborate with United States agencies like the Drug Enforcement Administration, Customs and Border Protection, and Immigration and Customs Enforcement. To maximize the potential for collaboration, the Committee recommends that any equipment and technology purchases should be interoperable based on open standards with the equipment and technology being used by their United States Government counterparts.

West Bank.—The Committee provides $25,000,000 for ongoing training of vetted units of the Palestinian National Security Forces, which is the same as the request.

MIGRATION AND REFUGEE ASSISTANCE

2008 appropriation to date	$1,023,178,000
2008 supplemental estimate	30,000,000
Committee recommendation	330,500,000

The budget request included $230,000,000 for Migration and Refugee Assistance, of which $200,000,000 was provided in the State, Foreign Operations Appropriations Act, 2008 (Public Law 110–161) for emergency refugee requirements in Iraq and the West Bank.

The Committee recommends an additional $330,500,000 for Migration and Refugee Assistance, which is $300,500,000 above the pending request. Funds should be made available to meet unmet global refugee needs, including to assist Iraqi refugees in Jordan, Syria, Lebanon, Turkey, Egypt, and the surrounding region, as well as internally displaced persons in Iraq. Funds may also be used, if necessary, for the admissions costs of Iraqis granted special immigrant status under the Special Immigrant Visa program

authorized by the National Defense Authorization Act of 2008. In addition, funds may be used to offset administrative costs associated with the expanded requirements of the Iraqi refugee program, in consultation with the Committees on Appropriations.

The humanitarian crisis involving Iraqi refugees and internally displaced persons is of concern and the Government of Iraq has dedicated insufficient resources to assist this most vulnerable segment of the Iraqi population. The Department of State is directed to urge the Government of Iraq to provide a substantial increase in funding for humanitarian assistance to the Iraqi refugee population residing in the region and within the country. In addition, the Secretary of State should ensure that the Senior Coordinator for Iraqi Refugee Issues gives particular attention to the needs of vulnerable minority groups.

The welfare and security of the 7,900 Lao Hmong in the Thai military camp in Petchaboon, northern Thailand is of concern and the Government of Thailand is urged to support a transparent screening process to identify those who have a legitimate fear of return to Laos. Any attempt to force the return of Hmong refugees to Laos is strongly opposed.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

2008 appropriation to date	$44,635,000
2008 supplemental estimate	.....
Committee recommendation	36,608,000

The Committee recommends an additional $36,608,000 for the United States Emergency Refugee and Migration Assistance Fund to prevent depletion of this emergency fund.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

2008 appropriation to date	$483,055,000
2008 supplemental estimate	5,000,000
Committee recommendation	10,000,000

The Committee recommends an additional $10,000,000 for Nonproliferation, Anti-Terrorism, Demining and Related Programs, which is $5,000,000 above the request.

Of these funds, $5,000,000 is for presidential protective service support in Afghanistan, which is the same as the request, and $5,000,000 is for a United States contribution to the Comprehensive Test Ban Treaty International Monitoring System.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

PEACEKEEPING OPERATIONS

2008 appropriation to date	$261,381,000
2008 supplemental estimate	.....
Committee recommendation	10,000,000

The Committee recommends an additional $10,000,000 for Peacekeeping Operations in the Democratic Republic of the Congo [DRC]. These funds are made available to support infantry battalions of the DRC armed forces, to protect vulnerable civilians in the eastern region of the country, and should be made available in accordance with thorough vetting procedures. The Department of State should ensure that trained units are being provided professional leadership, appropriate training in human rights, and adequate pay.

SUBCHAPTER B—BRIDGE FUND APPROPRIATIONS FOR FISCAL YEAR 2009

The budget request totals $3,605,000,000 in emergency supplemental funds for fiscal year 2009. The Committee recommendation is $3,600,000,000 for the Department of State, Foreign Operations, and related programs for fiscal year 2009 emergency supplemental requirements, which is $181,000,000 below the request.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

The Committee recommends $652,400,000 for Diplomatic and Consular Programs. Within this amount, $78,400,000 is available for worldwide security protection and not more than $500,000,000 is available as a bridge fund for Iraq operations.

To meet increased security and personnel requirements, the Committee provides $87,400,000 for Afghanistan, $7,000,000 for Pakistan, $3,000,000 for Somalia, and $15,000,000 for Sudan. In addition, the Committee provides $40,000,000 to continue support of new positions to develop language and other critical skills of the diplomatic corps and for civilian post-conflict stabilization initiatives.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

The Committee recommends $57,000,000 for the Office of the Inspector General at the Department of State, of which, $15,500,000 is to continue oversight of programs in Iraq, Afghanistan, and the Middle East.

Special Inspector General for Iraq Reconstruction [SIGIR].—The Committee recommends $36,500,000 for the SIGIR for continued oversight of United States reconstruction programs in Iraq, as authorized by section 3001 of Public Law 108–106.

Special Inspector General for Afghanistan Reconstruction [SIGAR].—The Committee recommends $5,000,000 for the SIGAR, for which no funds were requested, and which is authorized by section 1229 of Public Law 110–181. Such funds shall be used for oversight of United States reconstruction programs in Afghanistan. None of the funds shall be used to duplicate investigations that have been conducted or to support offices or systems of inspectors general at the Department of State or USAID. The SIGAR should co-locate staff and ''back office'' support systems with other inspectors general to the extent feasible.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

The Committee recommends $41,300,000 for urgent Embassy security, construction and maintenance costs. Funds should be used to construct safe and secure office space for the increasing number of diplomatic and development personnel living and working in Kabul, Afghanistan.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

The Committee recommends $75,000,000 for Contributions to International Organizations.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

The Committee recommends $150,500,000 for Contributions for International Peacekeeping Activities to fund the administration's revised estimate of the United States-assessed contribution to international peacekeeping.

RELATED AGENCIES

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

The Committee recommends $6,000,000 for International Broadcasting Operations.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

GLOBAL HEALTH AND CHILD SURVIVAL

The Committee recommends $75,000,000 for Global Health and Child Survival to continue programs to combat avian influenza.

DEVELOPMENT ASSISTANCE

Food Security Initiative.—The Committee recommends $200,000,000 for Development Assistance, which is for a new Food Security Initiative to promote food security in countries affected by significant food shortages, including programs to assist farmers to increase crop yields. Of this amount, up to $50,000,000 should be used for local and regional purchase. The Secretary of State is directed to submit a report to the Committees on Appropriations not later than 45 days after enactment of this act, and prior to the initial obligation of funds, on the proposed uses of funds to alleviate starvation, hunger, and malnutrition overseas, including a list of those countries facing significant food shortages.

INTERNATIONAL DISASTER ASSISTANCE

The Committee recommends $200,000,000 for International Disaster Assistance to meet urgent humanitarian requirements worldwide, including support for critical needs in Bangladesh, Burma and China. A portion of these funds should be used for assistance for internally displaced persons in Iraq and Afghanistan. In addition, funds are available under this heading to assist in the response to the international food crisis.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

The Committee recommends $93,000,000 for Operating Expenses of the United States Agency for International Development to address staffing, security, and operating needs.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

OFFICE OF INSPECTOR GENERAL

The Committee recommends $1,000,000 for Operating Expenses of the United States Agency for International Development Office of Inspector General.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

The Committee recommends $1,132,300,000 for Economic Support Fund. The agreement includes funding to address critical health, economic, and security needs. These funds are to be allocated as follows:

ECONOMIC SUPPORT FUND

[In thousands of dollars]

Country and Region	Committee recommendation
Afghanistan	455,000
Bangladesh	50,000
Burma	5,300
Central African Republic	2,000
Chad	5,000
Democratic Republic of the Congo	10,000
Iraq	110,000
Jordan	100,000
Kenya	25,000
North Korea	15,000
Pakistan	150,000
Sudan	25,000
Uganda	15,000
West Bank	150,000
Zimbabwe	15,000
Total	1,132,300

The Committee intends that funds made available for Burma should be used for humanitarian programs along the Thai-Burma border.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

The Committee recommends $151,000,000 for International Narcotics Control and Law Enforcement activities in Iraq, Afghanistan, the West Bank, and Africa.

MIGRATION AND REFUGEE ASSISTANCE

The Committee recommends $350,000,000 for Migration and Refugee Assistance. Funds are

available to respond to urgent humanitarian and refugee admissions requirements, including those involving refugees from Iraq, Afghanistan, and central Africa.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

The Committee recommends $4,500,000 for Nonproliferation, Anti-Terrorism, Demining and Related Programs, for humanitarian demining in Iraq.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

The Committee recommends $145,000,000 for the Foreign Military Financing Program, of which $100,000,000 is for assistance for Jordan and $45,000,000 is for assistance for Lebanon.

PEACEKEEPING OPERATIONS

The Committee recommends $85,000,000 for Peacekeeping Operations for programs in Africa to address needs beyond those projected in the fiscal year 2009 budget request, including for Darfur.

SUBCHAPTER C—GENERAL PROVISIONS—THIS CHAPTER

The recommended bill includes the following general provisions for this chapter:

EXTENSION OF AUTHORITIES

SEC. 1401. Extends certain authorities necessary to expend Department of State and foreign assistance funds.

IRAQ

SEC. 1402. Imposes certain conditions and limitations on assistance for Iraq and requires reports.

AFGHANISTAN

SEC. 1403. Imposes certain conditions and limitations on assistance for Afghanistan and requires a report.

WAIVER OF CERTAIN SANCTIONS AGAINST NORTH KOREA

SEC. 1404. Grants limited waiver authority to the President with respect to certain assistance to North Korea and the ''Glenn Amendment,'' which established automatic sanctions in the Arms Export Control Act on non-nuclear weapon states that detonate a nuclear device. The waiver authority would allow the following activities that materially and directly assist in the implementation of the Joint Statement of September 19, 2005:

—Financial assistance to the extent that such assistance materially assists disablement and disarmament (restrictions on credit and credit guarantees would remain in place);

—Sales of non-lethal articles on the United States Munitions List that may be necessary for disablement/dismantlement; and

—Controlled, dual-use equipment or goods that may be necessary to assist in disablement/disarmament activities.

In addition, dismantlement and disablement activities shall include removal of nuclear materials from the Korean peninsula and activities to verify that North Korea is fulfilling its denuclearization commitments.

MEXICO

SEC. 1405. Sets a ceiling on funding for Mexico at $350,000,000 and prohibits the use of funding for budget support or cash payments. The provision restricts obligation of 25 percent of the funding for the military and police forces until the Secretary of State determines and reports certain requirements have been met.

CENTRAL AMERICA

SEC. 1406. Sets a ceiling of $100,000,000 on funding for the countries of Central America, Haiti and the Dominican Republic and prohibits the use of funding for budget support or cash payments. The provision restricts obligation of 25 percent of the funding for the military and police forces until certain requirements have been met.

TECHNICAL PROVISIONS

SEC. 1407. Extends certain authorities in existing law. Paragraph (a) provides authority for previously appropriated funds to be used for administrative expenses in the Andean region of South America. Paragraph (b) provides authority for previously appropriated funds for the Department of Energy's National Nuclear Security Administration to support initiatives relating to the Six-Party Talks. Paragraph (c) clarifies authority for transferred funds previously appropriated. Paragraph (d) ensures USAID is fully reimbursed for the costs of administering and managing programs for other agencies and administration initiatives, such as the Millennium Challenge Corporation and the President's Emergency Plan for AIDS Relief. Paragraph (e) provides an exception for this section from the emergency designation of this act.

BUYING POWER MAINTENANCE ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

SEC. 1408. Provides $26,000,000 from Diplomatic and Consular Programs and authority to transfer up to an additional $74,000,000 of the funds made available by this act to the Buying Power Maintenance Account to manage exchange rate losses in fiscal year 2008. The Department of State shall consult on any proposed transfers resulting from this authority. The Department of State estimates the impact of currency fluctuations to be at least $260,000,000 on United States diplomatic operations worldwide.

In addition, the provision recommends authority to transfer unobligated and expired balances after fiscal year 2008 into the Buying Power Maintenance Account to address future exchange rate losses. The Secretary of State shall submit a report to the Committees on Appropriations not later than October 15, 2008 on the amount transferred pursuant to this authority in this or any fiscal year, the total amount of exchange rate losses in fiscal year 2008, and the accumulated impact of losses from prior years.

SERBIA

SEC. 1409. Transfers program assistance for Serbia to funds under the heading ''Embassy Security, Construction, and Maintenance'' to cover the costs of damage to the United States Embassy in Belgrade resulting from the February 21, 2008 attack.

RESCISSIONS

(INCLUDING RESCISSIONS)

SEC. 1410. Rescinds prior year funds and makes them available for a contribution to the World Food Program and for programs in the INCLE account.

DARFUR PEACEKEEPING

SEC. 1411. Authorizes the President to utilize prior year Foreign Military Financing Program and Peacekeeping Operations funds for transfer or lease of helicopters necessary for operations of the AU/UN hybrid peacekeeping mission in Darfur.

FOOD SECURITY AND CYCLONE NARGIS RELIEF

(INCLUDING RESCISSIONS)

SEC. 1412. Provides an additional $225,000,000 for International Disaster Assistance to address the international food crisis globally and for assistance for Burma to address the effects of Cyclone Nargis, and offset by a $225,000,000 rescission from the Millennium Challenge Corporation.

SOUTH AFRICA

SEC. 1413. Provides the Secretary of State authority regarding visa issuance relating to activities undertaken in opposition to apartheid rule.

JORDAN

(INCLUDING RESCISSIONS)

SEC. 1414. Provides an additional $300,000,000 for assistance for Jordan for border security, refugee, and reform programs.

ALLOCATIONS

SEC. 1415. Requires that funds in the specified accounts shall be allocated as indicated in the respective tables in this explanatory statement. Any change to these allocations shall be subject to the regular notification procedures of the Committees on Appropriations.

REPROGRAMMING AUTHORITY

SEC. 1416. Allows for reprogramming of funds made available in prior years to address critical food shortages, subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

SPENDING PLANS AND NOTIFICATION PROCEDURES

SEC. 1417. Requires the Secretary of State to provide detailed spending plans to the Committees on Appropriations on the uses of funds appropriated in subchapters A and B. These funds are also subject to the regular notification procedures of the Committees on Appropriations.

TERMS AND CONDITIONS

SEC. 1418. Establishes that unless explicitly designated in this chapter, the terms and conditions contained within the State, Foreign Operations and Related Programs Appropriations Act, 2008 (Public Law 110–161) shall apply to funds appropriated by this chapter.

TITLE II

DOMESTIC MATTERS

CHAPTER 1

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

The Committee recommends $265,000,000 for Food and Drug Administration, Salaries and Expenses to remain available until September 30, 2009. The Committee directs FDA to provide quarterly reports through December 31, 2009, on the status of the funding, including, but not limited to, expenditures and hiring by program, and significant accomplishments, including operations in foreign countries, enhanced inspection activities, scientific advances, and information technology improvements.

Of the amount recommended, $125,000,000 shall be used for activities related to food protection. The funding shall be used to open additional FDA offices overseas and improve FDA's capacity to identify risk factors and more rapidly mitigate any food safety problems. This includes more rapid detection of contamination and more rapid trace back abilities to determine the source of any outbreak of food borne illness. Further, this funding will be used to hire additional foreign and domestic inspectors to increase the number of import food exams, the number of foreign food facility inspections and the number of domestic food safety inspections; and to create a new communication system to more rapidly inform the public of any outbreak of food borne illness.

Of the amount recommended, $100,000,000 shall be used for activities related to drug, device, and biologics safety. The funding shall be used to increase foreign and domestic facility inspections, improve laboratory infrastructure and rapid analysis tools, implement the safety requirements outlined in

the Food and Drug Administration Amendments Act, and upgrade the agency's information technology to enable data sharing and enhanced analysis of adverse events.

Of the amount recommended, $40,000,000 will be used to enhance science programs across the agency, with specific focus on areas of emerging science where the FDA currently lacks the expertise necessary to regulate complex products under development. This will include funding for research, science training and professional development for current FDA staff, and efforts to recruit additional scientific staff to the agency.

BUILDINGS AND FACILITIES

The Committee recommends $10,000,000 for FDA to bring agency laboratories outside of the Washington region in line with public health safety standards.

CHAPTER 2

DEPARTMENT OF COMMERCE

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

2008 appropriation to date	$1,027,406,000
2008 supplemental estimate	.....
Committee recommendation	210,000,000

The bill includes $210,000,000 for increased costs associated with the poor management of the 2010 decennial census. Within the funds provided, not less than $50,300,000 shall be used to restore funding associated with the approved March 26, 2008 reprogramming within the Bureau of Census. Funds transferred pursuant to the reprogramming to address immediate shortfalls within the Field Data Collection Automation contract from the American Community Survey, Census Coverage Measurement activities, and other census activities may result in increased risk and other unintended consequences to other parts of the census. The $50,300,000 shall be available solely to complete previously planned activities and address vacancies in the aforementioned areas in order to reduce risk and ensure a successful 2010 decennial census.

The Census Bureau shall submit to the Committees on Appropriations of the Senate and the House of Representatives, within 30 days of enactment of this act, a detailed plan showing a timeline of milestones and expenditures for the 2010 decennial census, and shall include a quantitative assessment of the associated risk to the program as it is currently constituted. In addition, the inspector general shall submit quarterly reports to the Committees on Appropriations, until the conclusion of the 2010 decennial census, detailing the progress of the revised plan for the execution of the 2010 decennial census and any unanticipated slippages from the revised 2010 milestones, as well as reassessing the associated risk to the program. The Census Bureau is directed to provide the inspector general with any required information so that the quarterly reports can begin 60 days after submission of the plan.

Because rising costs associated with the 2010 decennial census and the Department's and the Bureau's lack of contract oversight are cause for particular concern, the recommendation includes not less than $3,000,000 for the Department's Office of the Inspector General for census contract oversight activities and not less than $1,000,000 solely for a reimbursable agreement with the Defense Contract Management Agency to review and improve Census contract management.

DEPARTMENT OF JUSTICE

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

2008 appropriation to date	$866,523,000
2008 supplemental estimate	.....
Committee recommendation	50,000,000

In order to implement and enforce the Adam Walsh Child Protection and Safety Act (Public Law 109–248), the United States Marshals Service requires funding to hire and equip at least 200 Deputy Marshals and at least 25 associated administrative personnel each year for the next 5 years. This funding is critical and necessary to establish the National Sex Offender Targeting Center, improve the information technology backbone, and reinforce the agency's infrastructure so that Deputy Marshals have timely, accurate investigative information to track down and arrest those who prey on our Nation's children. The Committee is deeply concerned that no additional resources have been requested or provided by the Department of Justice to undertake this mission as required under the Adam Walsh Child Protection and Safety Act.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

2008 appropriation to date	$5,050,440,000
2008 supplemental estimate	.....
Committee recommendation	178,000,000

The Committee recommends $178,000,000 for additional costs of the Bureau of Prisons [BOP] related to the custody and care of inmates and the maintenance and operation of correctional and penal institutions. The BOP has been chronically underfunded in recent budget requests, due to consistently underestimated growth in inmate populations and inadequate funding requests for medical expenses. As a result, BOP facilities face rising staff-to-inmate ratios, placing corrections officers and inmates at unacceptable risk of violence. The bill includes funding for FCI Pollock activation costs and for inmate drug abuse treatment required by law. The administration is urged to re-estimate BOP fixed costs and prisoner population for fiscal year 2009 and to provide the House and Senate Committees on Appropriations with those estimates no later than May 31, 2008. Further, the BOP is directed to notify the Committees of current staff-to-inmate ratios at all Federal prisons on a monthly basis.

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

2008 appropriation to date	$170,433,000
2008 supplemental estimate	.....
Committee recommendation	590,000,000

The Committee recommends $490,000,000 for Edward Byrne Memorial Justice Assistance Grants. Byrne grant funding is the single most important Federal resource for cops-on-the-beat in our States and local communities. This funding goes by formula to State and local police forces to help them prevent, fight, and prosecute crime.

The Committee notes that the President's annual budget requests have repeatedly proposed to cut drastically and eliminate Byrne grant funding. Each time, the Committee has rejected the President's proposals. In fiscal year 2008, the Senate-passed Commerce, Justice, Science [CJS] bill provided $660,000,000 for Byrne grants. But because of the President's veto threats, Byrne funding was reduced to just $170,000,000 in the final 2008 omnibus bill, $350,000,000 below the 2007 level, and $490,000,000 below the level included in the Senate-passed CJS bill for 2008. The Committee has heard from State and local police around the country that the consequences of these funding cuts will be fewer cops on our streets fighting gangs, drugs, and child predators and fewer prosecutions of criminals. This is unacceptable given that communities around the country—from suburbs and small towns to large cities—have faced rising crime rates. The Committee therefore recommends $490,000,000 in Byrne grant funding, and directs the Department of Justice to obligate these funds by formula no later than 30 days after enactment of this act.

In addition, the Committee recommends $100,000,000 for competitive grants for programs that provide assistance and equipment to local law enforcement along the Southern border or in High-Intensity Drug Trafficking Areas to combat criminal narcotic activity stemming from the Southern border, of which $10,000,000 shall be for the Bureau of Alcohol, Tobacco, Firearms and Explosives Project Gunrunner.

SCIENCE

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RETURN TO FLIGHT

2008 appropriation to date–	.....
2008 supplemental estimate	.....
Committee recommendation	$200,000,000

The Committee recommends $200,000,000 to address costs associated with the return to flight of the space shuttle. As a result of the loss of the space shuttle *Columbia*, NASA has experienced significant costs associated with the repair of the remaining shuttle fleet. This has caused serious budget and programmatic disruption to NASA's core programs. The Committee has provided transfer authority to the Administrator to fund programs that were cut as a result of shifting budget priorities related to the return to flight. The Administrator shall submit a spending plan to the Committee for this funding within 30 days of enactment of this act.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

2008 appropriation to date–	$4,821,474,000
2008 supplemental estimate	.....
Committee recommendation	150,000,000

The Committee recommends $150,000,000 for research and related activities at the National Science Foundation [NSF]. The Committee strongly supports the need to increase funding for all research disciplines at NSF and believes that it will maintain the flow of new ideas that fuel the economy, provide security, and enhance the quality of life. Within the recommendation the Committee provides $10,000,000 for the National Academic Research Fleet which is experiencing reduced research capacity due to rising fuel costs.

EDUCATION AND HUMAN RESOURCES

2008 appropriation to date–	$725,600,000
2008 supplemental estimate	.....
Committee recommendation	50,000,000

The Committee recommends $50,000,000 for science, technology, engineering, and mathematics [STEM] scholarship programs at the National Science Foundation [NSF]. STEM education is critical to our future economic prosperity. The National Academy of Sciences' report ''Rising Above the Gathering Storm'' recommended increasing the number of students earning degrees in the physical sciences in order to energize America for a brighter economic future. The recommendation includes an additional: $20,000,000 for the Robert Noyce Scholarship program to expand the program as authorized by the America COMPETES Act (Public Law 110–69); and $24,000,000 for Graduate Research Fellowships; $5,000,000 for Graduate

Teaching Fellowships; and $1,000,000 for Federal Scholarship for Service.

GENERAL PROVISION—THIS CHAPTER

SEC. 2201. The Committee includes bill language providing the National Telecommunications and Information Administration with added flexibility to conduct consumer education programs related to the digital television transition.

CHAPTER 3

DEPARTMENT OF ENERGY

NON-DEFENSE ENVIRONMENTAL CLEANUP

2008 appropriations to date	$182,263,000
2008 supplemental estimate	.....
Committee recommendation	5,000,000

The Committee recommends $5,000,000 for Non-Defense Environmental Cleanup. The Committee has been informed that legal obligations contained in compliance agreements and consent orders will not be met simply because of a lack of funding in fiscal year 2008. Additionally, the Committee has learned that the cleanup workforce will be reduced due to funding shortfalls. This increase provides a stimulus to support the workforce around the complex as well as meets milestones in existing compliance agreements.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

2008 appropriations to date	$622,162,000
2008 supplemental estimate	.....
Committee recommendation	52,000,000

The Committee recommends an additional $52,000,000 for Uranium Enrichment Decontamination and Decommissioning Fund. The committee has been informed that legal obligations contained in compliance agreements and consent orders will not be met simply because of a lack of funding in fiscal year 2008. Additionally, the Committee has learned that the cleanup workforce will be reduced due to funding shortfalls. This increase provides a stimulus to support the workforce around the complex as well as meets milestones in existing compliance agreements.

SCIENCE

2008 appropriations to date	$4,017,711,000
2008 supplemental estimate	.....
Committee recommendation	100,000,000

The Committee recommends an additional $100,000,000 for Science. The Committee is aware that the final fiscal year 2008 appropriation was essentially flat with fiscal year 2007 in many areas of the Science budget. The result of flat funding shows up in reduced hours of operation of equipment and facilities, reduced service to users, staff layoffs, reductions to education and training programs, and other negative impacts. This increase to fiscal year 2008 funding will restore the jobs of 10 to 30 people who were terminated and prevent the reduction of 200 additional employees.

Specifically, $55,000,000 is for Fusion Energy Sciences and $45,000,000 is for High Energy Physics.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

2008 appropriations to date	$5,349,378,000
2008 supplemental estimate	.....
Committee recommendation	243,000,000

The Committee recommends an additional $243,000,000 for Defense Environmental Cleanup. The Committee has been informed that legal obligations contained in compliance agreements and consent orders will not be met simply because of a lack of funding in fiscal year 2008. Additionally, the Committee has learned that the cleanup workforce will be reduced due to funding shortfalls. This increase provides a stimulus to support the workforce around the complex as well as meets milestones in existing compliance agreements.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2301. Language is included that extends the Department of Energy's cooperative agreement with the FutureGen Alliance to March 30, 2009.

SEC. 2302. Language is included to require continued down-blending Russian highly enriched uranium stockpiles.

CHAPTER 4

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2401. The Committee recommends $600,000 for the Small Business Administration to fund grants to veterans business resource centers.

SEC. 2402. The Committee recommends a provision to permit payment of premium rate increases in the costs of Federal Employees' Group Life Insurance for eligible bankruptcy judges and territorial district court judges.

SEC. 2403. The Committee recommends a provision to permit the U.S. Tax Court to pay premium rate increases in the costs of Federal Employees' Group Life Insurance for eligible judges.

CHAPTER 5

GENERAL PROVISION—THIS CHAPTER

SEC. 2501. The Committee recommends an amendment to the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393) that will provide an additional $400,000,000 for payments to States under the act.

CHAPTER 6

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

2008 appropriation to date	$3,265,883,000
2008 supplemental estimate	.....
Committee recommendation	110,000,000

The Committee recommendation includes $110,000,000 for State unemployment insurance and employment service operations. These funds reimburse States for the costs of administering the unemployment insurance program. These funds are available for obligation through December 31, 2008.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

2008 appropriation to date	$6,049,973,000
2008 supplemental estimate	.....
Committee recommendation	26,000,000

The Committee recommendation includes $26,000,000 for the prevention of and response to medical errors. Funds should be used for research, education and outreach activities. Of the funds provided, no less than $5,000,000 is designated for responding to outbreaks of communicable diseases related to the re-use of syringes in outpatient clinics, which may be used to reimburse local testing facilities and local health departments who are responsible for disease investigation and response. The Committee is particularly supportive of the Centers for Disease Control and Prevention's unique ability to provide genetic sequencing of such an outbreak, allowing for better epidemiologic investigations into the sources of exposure.

NATIONAL INSTITUTES OF HEALTH

OFFICE OF THE DIRECTOR

2008 appropriation to date	$1,109,099,000
2008 supplemental estimate	.....
Committee recommendation	400,000,000

The Committee recommends $400,000,000 for the National Institutes of Health. This appropriation is directed to the Office of the Director and will be transferred to the NIH Institutes and Centers on a pro-rata basis.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2601. The recommendation provides an additional $1,000,000,000 for the Low-Income Home Energy Assistance Program, split evenly between formula grants and contingency funds.

SEC. 2602. The Committee recommendation includes a provision requiring the Government Accountability Office to conduct studies of past and future minimum wage increases in American Samoa and the Commonwealth of the Northern Mariana Islands.

CHAPTER 7

RELATED AGENCY

AMERICAN BATTLE MONUMENTS COMMISSION

FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

2008 appropriation to date	$11,000,000
2008 supplemental estimate	.....
Committee recommendation	10,000,000

The Committee recommendation includes $10,000,000 for the American Battle Monuments Commission [ABMC] Foreign Currency Fluctuations Account. The Commission operates and maintains 24 permanent American burial grounds on foreign soil, where 131,000 U.S. war dead are interred. Since the summer of 2006, the U.S. dollar has fallen steadily against the European euro, causing a shortfall within the Commission's Foreign Currency Fluctuations Account, which affects the funding of salaries and expenses. The Committee recommends replenishing this account to ensure that the Commission can meet payroll obligations and fund cemetery maintenance.

CHAPTER 8

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2801. Allows aircraft operating turnaround service in Hawaii under an existing statutory exemption to continue to operate the same service under the exemption after being purchased or leased by another air carrier after April 1, 2008. The section also extends an existing statutory exemption to allow such purchased or leased aircraft to be transported between Hawaii and the 48 contiguous States.

SEC. 2802. Extends for 1 year the current terms and conditions of the aviation insurance program, commonly known as "war risk insurance," and the limitation on air carrier liability for third party claims arising out of acts of terrorism.

TITLE III

HURRICANES KATRINA AND RITA, AND OTHER NATURAL DISASTERS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FARM SERVICE AGENCY

EMERGENCY CONSERVATION PROGRAM

2008 appropriation to date	.....
2008 supplemental estimate	.....
Committee recommendation	$49,413,000

The Committee recommends $49,413,000 for the Emergency Conservation Program for recovery from floods, storms, and other natural disasters.

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

2008 appropriation to date	$29,790,000
2008 supplemental estimate	.....
Committee recommendation	130,464,000

The Committee recommends $130,464,000 for the Emergency Watershed Protection Program for recovery from floods, storms, and other natural disasters.

GENERAL PROVISION—THIS CHAPTER

SEC. 3101. This section makes $1,000,000 of funds previously provided to the Rural Electrification and Telecommunications Program Account to address hurricane damage available for electric loan modifications needed subsequent to any weather related damage occurring after Hurricane Katrina. A corresponding $1,000,000 of available funds are rescinded.

CHAPTER 2

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

2008 appropriation to date	$249,100,000
2008 supplemental estimate	.....
Committee recommendation	75,000,000

The Committee recommends $75,000,000 for Economic Development Assistance Programs [EDAP] to assist in the relocation of public facilities of the Port of New Orleans as a result of the closure of the deep draft channel of the Mississippi River Gulf Outlet [MRGO]. This funding is provided in accordance with section 3082(a) of the Water Resource Development Act of 2007 (Public Law 110–114). No funds are provided to relocate private facilities.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

2007 appropriation to date	$2,859,277,000
2007 supplemental estimate	.....
Committee recommendation	75,000,000

The Committee recommends $75,000,000 to help alleviate the economic impacts associated with commercial fishery failures, fishery resource disasters, and State and Federal regulations. The Committee is aware of multiple requests for fishery assistance. Specifically, the Committee is aware of costs associated with reductions in fishing capacity in the Northeast, costs associated with gear modifications to protect endangered species, as well as declared and pending disasters for west coast salmon, Chesapeake Bay blue crab, and gulf coast oysters. The Committee directs the Secretary of Commerce to provide the Committee with a spend plan for the allocation of these funds no later than 45 days after enactment.

DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

2008 appropriation to date	$187,513,000
2008 supplemental estimate	.....
Committee recommendation	75,000,000

The Committee recommends $75,000,000 for Edward Byrne Discretionary Grants to assist State and local law enforcement in Louisiana, Mississippi, and Alabama to continue to rebuild capacity and fight rising crime in the aftermath of Hurricane Katrina. Increased crime in the gulf region threatens the region's long-term recovery and immediate assistance is crucial. Funding is provided to combat juvenile crime and delinquency, assist in basic operational costs, and restore criminal and civil justice record-keeping systems. Of the funds provided, $50,000,000 is for Louisiana, $12,500,000 is for Alabama, and $12,500,000 is for Mississippi.

GENERAL PROVISION—THIS CHAPTER

SEC. 3201. The Committee includes bill language requiring certain designations in the Gulf of Mexico to comply with the National Marine Sanctuaries Act.

CHAPTER 3

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION

2008 appropriations to date	$2,294,029,000
2008 supplemental estimate (2009 budget request)	(4,362,000,000)
Committee recommendation	5,033,345,000

The Committee has not recommended the Lake Pontchartrain and Vicinity, West Bank and Vicinity and Southeast Louisiana projects be combined into a single project to be cost shared 65 percent Federal and 35 percent non-Federal as proposed by the administration with a resulting Federal cost of $2,835,000,000 and a non-Federal cost of $1,527,000,000. The Committee believes that the three authorized projects can be constructed as a coherent hurricane protection system without modifying the individual project authorizations or cost shares resulting in a Federal share of $3,047,000,000 and a non-Federal share of $1,315,000,000 that will be initially federally funded. This $4,362,000,000 shall not be available until October 1, 2008. The Committee has recommended $1,657,000,000 for the Lake Ponchartrain and Vicinity project; $1,415,000,000 for the West Bank and Vicinity Project; and $1,290,000,000 for the Southeast Louisiana projects. These three projects are to be initially federally funded with non-Federal shares estimated to be $497,000,000; $495,000,000; and $323,000,000 respectively. The non-Federal shares are to be repaid in accordance with section 103(k) of the Water Resources Development Act of 1986 (Public Law 99–662) over a period of 30 years. While the Committee has recommended specific statutory dollar amounts for the three projects, statutory language has been included that would allow the administration to request a reprogramming of funds, if required. However, the Committee believes that the Corps should use this reprogramming ability sparingly.

The Committee has recommended $604,745,000 hurricane and storm damage reduction, flood damage reduction and ecosystem restoration along the gulf coast of Mississippi. This $604,745,000 shall not be available until October 1, 2008. The Committee recommendation includes $173,615,000 for the Turkey Creek, Bayou Cumbest, Dantzler, Admiral Island, Franklin Creek, and Deer Island Environmental Restoration projects; $4,550,000 for the Moss Point Municipal Relocation project; $5,000,000 for the Waveland Floodproofing project; $150,000 for the Mississippi Sound Sub Aquatic Vegetation Project; $15,430,000 for the Coast-Wide Dune Restoration Project; $397,000,000 for the Homeowners Assistance and Relocation Project; and $9,000,000 for the Forrest Heights Hurricane and Storm Damage Reduction project. These projects are generally described in the Mobile District Engineer's Mississippi Coastal Improvements Program Comprehensive Plan Report. The non-Federal share of $211,661,000 is to be repaid in accordance with section 103(k) of the Water Resources Development Act of 1986 (Public Law 99–662) over a period of 30 years. While the Committee has recommended specific statutory dollar amounts for the listed projects, statutory language has been included that would allow the administration to request a reprogramming of funds, if required. However, the Committee believes that the Corps should use this reprogramming ability sparingly.

Due to recent natural disasters, the Corps of Engineers has identified a number of projects that are currently under construction that have been damaged by storm and flood events. The Committee has recommended $66,600,000 for the Corps to repair and rehabilitate these construction projects that were affected by natural disasters.

MISSISSIPPI RIVER AND TRIBUTARIES

2008 appropriations to date	$387,402,000
2008 supplemental estimate	.....
Committee recommendation	17,700,000

Due to recent natural disasters, the Corps of Engineers has identified a number of Federally maintained construction and maintenance projects that have been damaged or otherwise impacted by storm and flood events. The Committee has recommended $17,700,000 for the Corps to repair and rehabilitate these projects that were affected by natural disasters.

OPERATION AND MAINTENANCE

2008 appropriations to date	$2,243,637,000
2008 supplemental estimate	.....
Committee recommendation	338,800,000

Due to recent natural disasters, the Corps of Engineers has identified a number of navigation and flood damage reduction projects that have been impacted by storm and flood events. The Committee has recommended $338,800,000 for the Corps to restore navigation channels and harbors to pre-storm conditions; to repair eligible flood damage reduction and other projects in States affected by natural disasters; and to continue to inventory and assess levees and floodwalls nationwide.

FLOOD CONTROL AND COASTAL EMERGENCIES

2008 appropriations to date	.....
2008 supplemental estimate (2009 budget request)	($2,926,000,000)
Committee recommendation	3,368,400,000

The Committee has recommended the full administration request of $2,926,000,000 for the work related to Hurricanes Katrina and Rita. However, for consistency, the funding has been recommended in the same elements as requested by the administration and appropriated in Public Law 109–234 rather than as a lump sum as proposed by the administration for this request. This $2,926,000,000 shall not be available until October 1, 2008. The Committee has recommended $704,000,000 to modify the 17th Street, Orleans Avenue, and London Avenue drainage canals and install pumps and closure structures at or near the lakefront; $90,000,000 for storm-proofing interior pump stations to ensure the operability of the stations during hurricanes, storms, and high water events; $459,000,000 for armoring critical elements of the New Orleans hurricane and storm damage reduction system; $53,000,000 to improve protection at the Inner Harbor Navigation Canal; $456,000,000 to replace or modify certain non-Federal levees in Plaquemines Parish to incorporate the levees into the existing New Orleans to Venice hurricane protection project; $412,000,000 for reinforcing or replacing flood walls, as necessary, in the existing Lake Pontchartrain and Vicinity project and the existing West Bank and Vicinity project to improve the performance of the systems;

$393,000,000 for repair and restoration of authorized protections and floodwalls; and $359,000,000 to complete the authorized protection for the Lake Pontchartrain and Vicinity Project and for the West Bank and Vicinity Project. While the Committee has recommended specific statutory dollar amounts for the three projects, statutory language has been included that would allow the administration to request a reprogramming of funds, if required. However, the Committee believes that the Corps should use this reprogramming ability sparingly.

The Committee remains concerned that plans under development for permanent pumping of storm water in the New Orleans metropolitan area do not fully account for the operational challenges that arise during major storm events and are not, therefore, fully protective of public safety.

After reviewing the report furnished in response to section 4303 of Public Law 110–28, the Committee has concluded that Option 1, as presented therein, presents unacceptable risks given that it relies on old equipment and technology that is less reliable, it requires synchronized operation of multiple pump stations by both local and Federal agencies during high flood flow or storm events creating operational complexity and requires operation and maintenance of more systems that would be true in Option 2.

In the report the Corps states that ''Option 2 is generally more technically advantageous and may be more effective operationally over Option 1 because it would have greater reliability and further reduces the risk of flooding.'' The Corps further states that ''Discharge of storm water directly to the Mississippi River (Option 2a) would reduce the size of the new pump station required at the lake and would reduce the magnitude of the canal modifications required to accommodate gravity flow in the 17th Street system.''

Given these conclusions and the severe consequences of a failure relating to loss of life and property, the Corps is directed to continue the NEPA alternative evaluation of all options with particular attention to Options 1 and 2 and 2a and within 90 days of enactment of this act provide the House and Senate Appropriation Committees cost estimates to implement Options 1, 2 and 2a of the above cited report.

The Committee recommendation includes $348,000,000 for barrier island restoration and ecosystem restoration along the Mississippi gulf coast. This $348,000,000 shall not be available until October 1, 2008. This restoration will help to restore the historic levels of storm damage reduction to the Mississippi gulf coast that these islands once provided. These funds are provided at full Federal expense as these islands are a part of the Gulf Islands National Seashore and are publicly owned and managed by the Department of the Interior.

Due to recent natural disasters, the Corps of Engineers has identified a number of projects that have been damaged by storm and flood events. The Committee has recommended $94,400,000 for the Corps to prepare for flood, hurricane and other natural disasters and support emergency operations, repairs, and other activities in response to flood and hurricane emergencies, as authorized by law; to repair and rehabilitate eligible projects that were affected by natural disasters; and to fund claims processing and discovery costs associated with Hurricane Katrina lawsuits.

GENERAL EXPENSES

2008 appropriations to date	$175,046,000
2008 supplemental estimate	.....
Committee recommendation	1,500,000

Funds totaling $1,500,000 are recommended for additional oversight and management costs associated with Hurricanes Katrina and Rita.

CHAPTER 4

GENERAL PROVISION—THIS CHAPTER

SEC. 3401. The Committee includes a provision to extend eligibility under the Small Business Administration's 8(a) program for 2 additional years beyond the current participation limit of 9 years for small businesses located in Katrina-impacted areas in Alabama, Mississippi, and Louisiana. The Committee is concerned that access to Federal recovery contracts for small businesses in the gulf region is inadequate. The Committee also urges SBA District Offices and regional SBA Procurement Center Representatives to heighten their focus on improving small business utilization efforts in the gulf region, including attention to small businesses associated with the Michoud Assembly Facility in New Orleans, Louisiana.

CHAPTER 5

GENERAL PROVISIONS—THIS CHAPTER

SEC. 3501. A provision is included regarding Federal Emergency Management Agency assistance to police stations, fire stations, and criminal justice facilities damaged by Hurricanes Katrina and Rita of 2005.

SEC. 3502. A provision is included regarding flood insurance in the St. Louis District of the Mississippi Valley Division of the Corps of Engineers.

CHAPTER 6

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

WILDLAND FIRE MANAGEMENT

2008 appropriation to date	$1,057,072,000
2008 supplemental estimate	.....
Committee recommendation	125,000,000

The Committee recommends $125,000,000 for wildland fire management activities. Of this amount, $100,000,000 is for urgent wildland fire suppression, and $25,000,000 is for burned area rehabilitation.

NATIONAL PARK SERVICE

HISTORIC PRESERVATION FUND

2008 appropriation to date	$70,385,000
2008 supplemental estimate	.....
Committee recommendation	15,000,000

The Committee recommends $15,000,000 for the Historic Preservation Fund for expenses related to Hurricane Katrina. These funds will be directed by the National Park Service to the Louisiana State Historic Preservation Officer for grants for the restoration and rehabilitation at Jackson Barracks.

ENVIRONMENTAL PROTECTION AGENCY

STATE AND TRIBAL ASSISTANCE GRANTS

2008 appropriation to date	$2,921,051,000
2008 supplemental estimate	.....
Committee recommendation	5,000,000

The Committee recommends an additional $5,000,000 for the State and tribal assistance grant account for expenses related to Hurricanes Katrina and Rita. These funds will be used by Cameron Parish, Louisiana for sewer system improvements for the community of Holly Beach.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

WILDLAND FIRE MANAGEMENT

2008 appropriation to date	$2,494,477,000
2008 supplemental estimate	.....
Committee recommendation	325,000,000

The Committee recommends an additional $325,000,000 for the wildland fire management account to fund wildland fire suppression and rehabilitation and restoration of burned-over forest lands. Of the funds provided, $250,000,000 shall be for emergency fire suppression activities and for repayment of other program funds borrowed to fund suppression activities. The Committee has also provided $75,000,000 for urgently needed fire rehabilitation and restoration projects on national forest lands and directs the Forest Service to allocate these funds to areas that face the greatest stabilization and watershed protection needs based on values at risk. The Committee notes that it has provided language to transfer these funds into other agency accounts as necessary.

GENERAL PROVISION—THIS CHAPTER

SEC. 3601. This section clarifies that the use of funds previously provided in Public Law 110–161 for the purpose of acquiring lands shall not be subject to certain internal policies of the Department of the Interior.

CHAPTER 7

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR MEDICARE AND MEDICAID SERVICES

2008 appropriation to date	.....
2008 supplemental estimate	.....
Committee recommendation	$350,000,000

The Committee recommendation includes $350,000,000 for grants to hospitals in the gulf coast region affected by Hurricane Katrina to stabilize the workforce for patient care. Funds shall remain available until September 30, 2010.

CHAPTER 8

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

(INCLUDING RESCISSION OF FUNDS)

2008 appropriation to date	$536,656,000
2008 supplemental estimate	.....
Committee recommendation	11,503,000

The Committee recommends $11,503,000 for Military Construction, Army National Guard. The funds are provided to reconstruct a Battalion Supply building and billeting areas at Camp Shelby, Mississippi, that were destroyed as a result of tornado damage on March 4, 2008.

The Committee also recommends rescinding $7,000,000 in funds previously appropriated to this account due to savings. The rescissions are as follows:

[In thousands of dollars]

Public Law	Location	Project title	Committee recommendation
Public Law 109–234 (fiscal year 2006)	Louisiana: Hammond	Army Aviation Support Facility	−2,600
	Louisiana: Jackson Barracks	Readiness Center	−1,750
	Louisiana Various Locations	Projects provided in Public Law 109–148	−2,650
TOTAL			−7,000

GENERAL PROVISION—THIS CHAPTER

SEC. 3801. Allows certain funds available in the Department of Defense Family Housing Improvement Fund to be used for a family housing privatization project.

CHAPTER 9

DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

2008 appropriation to date	$100,000,000
2008 supplemental estimate	.....
Committee recommendation	451,126,383

The Committee recommends an additional $451,126,383 to carry out emergency relief [ER] projects for which a formal request has been submitted to the Federal Highway Administration [FHWA] for disasters occuring in fiscal year 2005 to the present. The amount provided will be sufficient to cover an estimated backlog of 41 separate applications from 21 States for roads and bridges that were damaged or destroyed in declared disaster areas.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PERMANENT SUPPORTIVE HOUSING

2008 appropriation to date	.....
2008 supplemental estimate	.....
Committee recommendation	$73,000,000

The Committee recommends $76,000,000 to fund permanent supportive housing in Louisiana. The State of Louisiana developed plans to create 3,000 units of permanent supportive housing for elderly, disabled and other homeless individuals most at risk. The recommended funding will provide the necessary rent subsidies to make these units affordable and get tenants into safe and stable housing. Of the funding recommended, at least $20,000,000 will support project-based vouchers, and at least $50,000,000 will support units under the Shelter Plus Care program. The Committee has also included not more than $3,000,000 to cover reasonable administrative expenses of the State of Louisiana related to administering this funding.

PROJECT-BASED RENTAL ASSISTANCE

2008 appropriation	$6,381,810,000
2008 supplemental estimate	.....
House allowance	.....
Committee recommendation	20,000,000

The Committee recommends $20,000,000 to fund vouchers for project-based rental assistance in the State of Mississippi to assist low-income individuals and families that were impacted by Hurricane Katrina. The recommended funding will provide necessary housing support for citizens in economic distress including homeless individuals in the impacted region.

HOUSING TRANSITION ASSISTANCE

2008 appropriation to date	.....
2008 supplemental estimate	.....
Committee recommendation	$3,000,000

The Committee has provided $3,000,000 to the State of Louisiana for case management and housing transition services for families in areas impacted by Hurricanes Katrina and Rita of 2005.

COMMUNITY DEVELOPMENT FUND

2008 appropriation to date	$6,865,800,000
2008 supplemental estimate	.....
Committee recommendation	50,000,000

The Committee recommends an additional $50,000,000 in Community Development Block Grant [CDBG] funds for the State of Alabama for disaster relief efforts to cover uncompensated housing damage that has resulted from Hurricane Katrina. Consistent with the requirements of prior CDBG appropriations to the hurricane-impacted region, the Committee requires the State to submit a plan to the Secretary of Housing and Urban Development outlining the proposed use of such funds. The Committee provides that the State may use up to 5 percent of the total funds made available under this section for administrative costs. Consistent with previous appropriations to the gulf States for hurricane recovery activities, the Secretary may waive or require additional requirements to facilitate the use of such funds.

(RESCISSION)

The Committee recommends a rescission of $200,000,000 from unobligated supplemental funds previously made available in Public Law 110–116 through the CDBG program for the ''Road Home'' recovery program in Louisiana. These funds were made available solely to cover uncompensated but eligible claims under that program. Updated data indicate that $200,000,000 will be available for rescission once all eligible claims are paid.

TITLE IV

VETERANS EDUCATIONAL ASSISTANCE

The Committee recommendation includes provisions establishing a new program of educational assistance for servicemembers who have served on active duty since September 11, 2001.

TITLE V

EMERGENCY UNEMPLOYMENT COMPENSATION

The Committee recommendation includes provisions related to a program of emergency unemployment compensation.

TITLE VI

OTHER HEALTH MATTERS

The Committee recommendation includes a number of provisions that extend or impose a moratorium on a number of Medicaid regulations. Those provisions relate to payments to public providers, payments for graduate medical education, payments for targeted case management activities, payments for school-based and rehabilitation services, payments for outpatient services, and provider taxes.

The Committee recommendation also includes a provision making a technical correction to a DRA provision related to Medicaid drug pricing.

The Committee recommendation includes a provision expanding the existing web-based asset verification demonstration program in the Supplemental Security Income program to the Medicaid program.

The Committee recommendation includes a provision preventing new physician-owned hospitals from joining the Medicare program.

The Committee recommendation includes a provision to deposit excess savings from the two offsets in an account available for future improvements to the Medicare program.

The Committee recommendation also includes a prohibition against the Secretary of Health and Human Services taking any action related to an August 17, 2007 CMS directive under the State Children's Health Insurance Program. The recommendation also includes an adjustment to the physician assistance and quality initiative fund.

TITLE VII

ACCOUNTABILITY AND COMPETITION IN GOVERNMENT CONTRACTING

CHAPTER 1

CLOSE THE CONTRACTOR FRAUD LOOPHOLE

Chapter 1 of title VII is identical to the language of H.R. 5712, ''Close the Contractor Fraud Loophole Act,'' passed by the House on April 23, 2008. It closes a loophole in a proposed rule so that mandatory fraud reporting requirements would apply to U.S. contractors working overseas as well as to contractors working here at home.

CHAPTER 2

GOVERNMENT FUNDING TRANSPARENCY

Chapter 2 of title VII is identical to the language of H.R. 3928, ''Government Funding Transparency Act of 2007,'' passed by the House on April 23, 2008. It requires any company or organization receiving at least $25,000,000 and 80 percent or more of their revenue from Federal payments to disclose the salaries of their most highly compensated officers.

TITLE VIII

EMERGENCY AGRICULTURE RELIEF

The Committee recommends a provision regarding farm workers and modifying the H–2A visa program.

TITLE IX

TELEWORK ENHANCEMENT ACT OF 2008

The Committee includes provisions to define ''telework'' and to require executive agencies to establish telework policies.

TITLE X

GENERAL PROVISIONS—THIS ACT

AVAILABILITY OF FUNDS

SEC. 10001. The Committee recommends a provision that limits the availability of the funds provided in this title to the current fiscal year unless expressly provided otherwise.

EMERGENCY DESIGNATION

SEC. 10002. The Committee recommends a provision designating the funds in this Act as emergency requirements.

AVOIDANCE OF U.S. PAYROLL TAX CONTRIBUTIONS

Sec. 10003. The Committee recommends a provision to prohibit the use of funds to contract with U.S. corporations which hire U.S. employees through foreign offshore subsidiaries to avoid U.S. payroll tax contributions.

EXTENSION OF EB–5 REGIONAL CENTER PILOT PROGRAM

SEC. 10004. The recommendation includes a provision extending the EB–5 Regional Centers pilot program for 5 years.

INTERIM RELIEF FOR SKILLED IMMIGRANT WORKERS

SEC. 10005. The recommendation includes a provision recapturing unused employment based visas.

NURSING SHORTAGE RELIEF

SEC. 10006. The recommendation includes a provision regarding nursing shortage relief.

NURSE TRAINING AND RETENTION DEMONSTRATION GRANTS

SEC. 10007. The recommendation includes a provision regarding nurse training and retention demonstration grants.

EXPLANATORY STATEMENT

SEC. 10008. The Committee recommends language that would have the effect of treating this explanatory statement when printed in the Congressional Record as if it were a report to the Senate.

SHORT TITLE

SEC. 10009. The Committee recommends a short title for this act.

NOTIFICATION OF EMERGENCY LEGISLATION

The congressional budget resolution (S. Con. Res. 21) agreed to by Congress for fiscal year 2007 includes provisions relating to the notification of emergency spending. These provisions require a statement of how the emergency provisions contained in the bill meet the criteria for emergency spending as identified in the budget resolution.

The Committee recommends emergency funding for fiscal year 2008 for overseas deployments and other activities, for hurricane recovery in the gulf coast region, and other natural disasters, and for other needs. The funding is related to unanticipated needs and is for situations that are sudden, urgent, and unforeseen, specifically the global war on terror and the hurricanes of 2005 and other natural disasters. The recommendation also funds the costs of ongoing military deployments and other requirements through the beginning months of the next fiscal year. These needs meet the criteria for emergencies.

AMENDMENT #2

TITLE XI

DEFENSE MATTERS

CHAPTER 1

SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2008

DEPARTMENT OF DEFENSE—MILITARY

OVERVIEW

RECOMMENDATION

In title XI, chapter 1, total new appropriations of $99,505,877,000 are recommended. A detailed review of the recommendations for programs funded in this chapter is provided in the following pages.

The recommended supplemental appropriations for the Department of Defense are intended for ongoing military and intelligence operations in support of Operation Iraqi Freedom [OIF], Operation Enduring Freedom [OEF], and the larger global war on terror [GWOT]. The recommendations in this chapter are based on the initial budget request, an update to that request, formal hearings, and numerous briefings and are intended to address emergency, high-priority needs of the United States military and intelligence community. In some cases, funding has been reduced or eliminated for certain activities that are either not emergency in nature; that cannot be obligated and/or executed in a timely fashion; or which involve new policy and program decisions that should be addressed in the regular authorization and appropriations bills for fiscal year 2009.

The following table summarizes by appropriation account or general provision, the recommendation:

[In thousands of dollars]

	Committee recommendation
CHAPTER 1	
DEPARTMENT OF DEFENSE—MILITARY	
Military Personnel	
Military Personnel, Army (emergency)	12,216,715
Military Personnel, Navy (emergency)	894,185
Military Personnel, Marine Corps (emergency)	1,826,688
Military Personnel, Air Force (emergency)	1,355,544
Reserve Personnel, Army (emergency)	304,200
Reserve Personnel, Navy (emergency)	72,800
Reserve Personnel, Marine Corps (emergency)	16,720
Reserve Personnel, Air Force (emergency)	5,000
National Guard Personnel, Army (emergency)	1,369,747
National Guard Personnel, Air Force (emergency)	4,000
Total, Military Personnel	18,065,599
Operation and Maintenance	
Operation & Maintenance, Army (emergency)	17,223,512
Operation & Maintenance, Navy (emergency)	2,977,864
(Transfer out) (emergency)	(−112,607)
Operation & Maintenance, Marine Corps (emergency)	159,900
Operation & Maintenance, Air Force (emergency)	5,972,520
Operation & Maintenance, Defense-Wide (emergency)	3,657,562
Operation & Maintenance, Army Reserve (emergency)	164,839
Operation & Maintenance, Navy Reserve (emergency)	109,876
Operation & Maintenance, Marine Corps Reserve (emergency)	70,256
Operation & Maintenance, Air Force Reserve (emergency)	165,994
Operation & Maintenance, Army National Guard (emergency)	685,644
Operation & Maintenance, Air National Guard (emergency)	287,369
Subtotal, Operation and Maintenance	31,475,336
Iraq Freedom Fund (emergency)	50,000
Afghanistan Security Forces Fund (emergency)	1,400,000
Iraq Security Forces Fund (emergency)	1,500,000
Subtotal, Other	2,950,000
Total, Operation and Maintenance	34,425,336
Procurement	
Aircraft Procurement, Army (emergency)	954,111
Missile Procurement, Army (emergency)	561,656
Procurement of Weapons and Tracked Combat Vehicles, Army (emergency)	5,463,471
Procurement of Ammunition, Army (emergency)	344,900
Other Procurement, Army (emergency)	16,337,340
Aircraft Procurement, Navy (emergency)	3,563,254
Weapons Procurement, Navy (emergency)	317,456
Procurement of Ammunition, Navy and Marine Corps (emergency)	304,945
Other Procurement, Navy (emergency)	1,399,135
Procurement, Marine Corps (emergency)	2,197,390
Aircraft Procurement, Air Force (emergency)	7,103,923
Missile Procurement, Air Force (emergency)	66,943
Procurement of Ammunition, Air Force (emergency)	205,455
Other Procurement, Air Force (emergency)	1,953,167
Procurement, Defense-Wide (emergency)	408,209
National Guard and Reserve Equipment (emergency)	825,000
Rapid Acquisition Fund	
Total, Procurement	42,006,355
Research, Development, Test and Evaluation	
Research, Development, Test & Evaluation, Army (emergency)	162,958
Research, Development, Test & Evaluation, Navy (emergency)	366,110
Research, Development, Test & Evaluation, Air Force (emergency)	399,817
Research, Development, Test and Evaluation, Defense-Wide (emergency)	816,598
Total, Research, Development, Test and Evaluation	1,745,483
Revolving and Management Funds	
Defense Working Capital Funds (emergency)	1,837,450
National Defense Sealift Fund (emergency)	5,110
Total, Revolving and Management Funds	1,842,560
Other Department of Defense Programs	
Defense Health Program (emergency)	1,413,864
Operation and maintenance (emergency)	(957,064)
Procurement (emergency)	(91,900)
Research Development and Testing (emergency)	(364,900)
Psychological health and traumatic brain injury (emergency)	75,000
Drug Interdiction and Counter–Drug Activities, Defense (emergency)	65,317
Office of the Inspector General (emergency)	6,394
Total, Other Department of Defense Programs	1,560,575
General Provisions	
Sec. xxxx Additional transfer authority (emergency)	(2,500,000)
Defense Cooperation Account: Sec. xxxx (transfer authority) (emergency)	6,500
Rescission (emergency)	−146,531
Total, General Provisions	−140,031
Total, Chapter 1	99,505,877

Additionally, a number of needs were identified that were not adequately addressed by the Department of Defense. Major initiatives in the recommendation include:

—*Facilities Sustainment, Restoration and Modernization [FSRM]*.—The recommendation includes an additional $500,000,000 for FSRM at Army and Marine Corps facilities;

—*Department of Defense Identified Operation & Maintenance Shortfalls*.—The recommendation includes $3,617,308,000 to address the increasing price of fuel and other petroleum products;

—*Yellow Ribbon Reintegration Program*.—The recommendation includes $65,400,000 to support the Yellow Ribbon Reintegration program to help members of the National Guard and Reserve transition from combat to civilian life. The recommendation is summarized as follows:

[In thousands of dollars]

	Fiscal Year 2008 Yellow Ribbon
Military Personnel:	
Reserve Personnel, Army	5,000
Reserve Personnel, Navy	2,800
Reserve Personnel, Marine Corps	1,300
Reserve Personnel, Air Force	2,000
National Guard Personnel, Army	15,000
National Guard Personnel, Air Force	4,000
Total, Military Personnel	30,100
Operation and Maintenance:	
Operation and Maintenance, Army Reserve	8,300
Operation and Maintenance, Navy Reserve	2,200
Operation and Maintenance, Marine Corps Reserve	1,300
Operation and Maintenance, Air Force Reserve	3,500
Operation and Maintenance, Army National Guard	18,000
Operation and Maintenance, Air National Guard	2,000
Total, Operation and Maintenance	35,300

—*Contract Management*.—The recommendation includes $52,000,000 for the Defense Contract Management Agency to hire more than 200 additional contract managers to prevent waste, fraud and abuse in Department of Defense contracting in Iraq and Afghanistan;

—*Land Warrior*.—The recommendation includes $102,000,000 to outfit one ''next to deploy'' brigade combat team with Land Warrior equipment sets;

—*C–17 Procurement*.—The recommendation includes $3,604,500,000 to procure 15 C–17 aircraft;

—*C–130 Procurement*.—The recommendation includes $2,469,700,000 for the procurement of 34 C–130 aircraft including Air Force, Marine Corps and Special Operations variants; and

—*Department of Defense Identified Acquisition Shortfalls*.—The recommendation includes over $1,200,000,000 for a variety of military service Joint Urgent Operational Needs identified by the Department of Defense; and

Overall, the recommendations total $99,505,877,000 and are structured to maximize support to our men and women in uniform. They meet important force protection, equipment and personnel needs, while fully funding the operational requirements to conduct the global war on terror.

CLASSIFIED ANNEX

The recommendations for intelligence activities are published in a separate and detailed classified annex. The intelligence community, Department of Defense and other organizations are expected to fully comply with the recommendations and direction in the classified annex accompanying this act.

REPORTING REQUIREMENTS

The Secretary of Defense is directed to provide a report to the congressional defense

committees within 30 days of enactment of this act on the allocation of the funds within the accounts listed in this chapter. The Secretary shall submit updated reports 30 days after the end of each fiscal quarter until funds listed in this chapter are no longer available for obligation. The Secretary is directed that these reports shall include: a detailed accounting of obligations and expenditures of appropriations provided in this chapter by program and subactivity group for the continuation of military operations in Iraq and Afghanistan and a listing of equipment procured using funds provided in this chapter. It is expected that, in order to meet unanticipated requirements, the Department of Defense may need to transfer funds within these appropriation accounts for purposes other than those specified in this statement. The Department of Defense is directed to follow normal prior approval reprogramming procedures should it be necessary to transfer funding between different appropriations accounts in this chapter.

Additionally, the Department of Defense is directed to submit monthly supplemental execution reports to the congressional defense committees that include the following information by appropriation: funding appropriated, funding allocated, monthly obligations, monthly disbursements, cumulative fiscal year obligations, and cumulative fiscal year disbursements.

CIVIL SUPPORT RESPONSIBILITIES REPORT

The Secretary of Defense, in consultation with the Secretary of Homeland Security, shall provide a report on the progress of the Department of Defense efforts to plan for and provide support to civil authorities during incidents of national significance as required by sections 1814 and 1815 of Public Law 110–181. The report shall be provided to the Committees on Appropriations and other congressional defense committees no later than 60 days after enactment of this act. Specifically the report shall provide a projected timeframe for completing the determination of requirements requested in sections 1814 and 1815, milestones for implementation of planning and readiness improvements, and any available information on the Department of Defense's current state of readiness and gaps in readiness for each of the National Planning Scenarios. In addition, the Secretary of Defense shall include in the report an explanation on how the Department's civil support and homeland defense responsibilities are incorporated into the validation and prioritization of the services' equipment requirements.

CONTRACTING

There is concern over the numerous instances of waste, fraud, and abuse that have occurred in Department of Defense contracting activities in support of contingency operations. The Department and the military services did not properly address the necessary personnel, training, and technology requirements over the years, but are now taking steps to improve their capabilities. This recommendation includes additional funds to further many of the initiatives and increased personnel requirements identified by the Department of Defense and outside reviews such as the Gansler report. The recommendation also calls for enhanced reporting requirements to ensure improved oversight over the Iraq and Afghanistan Security Forces Funds, and the Commander's Emergency Response Program. Finally, it provides funding for the Department of Defense Inspector General to improve its antiquated tracking system for the Criminal Investigation Service.

OPERATION ENDURING FREEDOM

The recommendation provides additional resources to aid U.S. military operations in Afghanistan and to strengthen the Afghanistan Security Forces. Afghanistan Security Forces are critical to the stability of Afghanistan and essential to our fight against al Qaeda and other terrorist organizations. To increase our efforts to train and equip these forces, the recommendation funds additional trainers for the Afghan National Army and the Afghan National Police. It also doubles the Commander's Emergency Response Program [CERP] in Afghanistan from fiscal year 2007 levels to address critical small scale humanitarian efforts. Included in this amount are the necessary resources to support the CERP program for the additional marines in Afghanistan. These and other efforts related to Afghanistan are discussed elsewhere in this report and in the classified annex.

CASE MANAGEMENT AND DISABILITY EVALUATION FOR WOUNDED WARRIORS

The recommendation includes $94,900,000 in the Operation and Maintenance, Defense-Wide; Procurement, Defense-Wide; Research, Development, Test and Evaluation, Defense-Wide; and the Defense Health Program appropriation accounts to address gaps identified by the President's Commission on Care for America's Returning Wounded Warriors. The funding will enable improvements in case management, data sharing, and the disability evaluation system [DES]. Additionally, the funding will support the ongoing DES Pilot program, information technology development, support for case management, and improvement of Department of Defense and Department of Veterans Affairs data sharing gateways, and distribution of wounded warrior care and benefits informational handbooks.

DEFENSE HEALTH PROGRAM OVERVIEW

The recommendation includes a total appropriation of $1,488,864,000 for the Defense Health Program. This funding will provide medical and dental services to active forces and mobilized Reserve Components, as they support Operation Iraqi Freedom and Operation Enduring Freedom, and their family members. The funding also provides for costs associated with the treatment of combat-related injuries.

The recommendation also provides $293,023,000 for facilities sustainment, restoration and maintenance; $1,000,000 for the Center of Excellence for Eye Injuries; $70,000,000 for the Center for Neuroscience and Regenerative Medicine and $47,100,000 in various budget activities for disability evaluation system and case management.

FUNDING FOR RESEARCH, DEVELOPMENT, TEST AND EVALUATION

Research, Development, Test and Evaluation has historically not been funded in large amounts in emergency supplemental appropriations. Generally, funding has been provided for items that have been funded in prior supplemental appropriations, or that can be developed and fielded in a timely manner to impact the global war on terror.

MILITARY PERSONNEL

An appropriation of $18,065,599,000 is recommended for Military Personnel.

The recommendations for each military personnel account are shown below:

[In thousands of dollars]

Account	Committee recommendation
MILITARY PERSONNEL, ARMY	
ACTIVITY 1: PAY AND ALLOWANCES OF OFFICERS:	
BASIC PAY	1,142,768
RETIRED PAY ACCRUAL	230,280
BASIC ALLOWANCE FOR HOUSING	286,673
BASIC ALLOWANCE FOR SUBSISTENCE	38,324
SPECIAL PAYS	535,246
SOCIAL SECURITY TAX	87,416
TOTAL, BUDGET ACTIVITY 1	2,320,707
ACTIVITY 2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL:	
BASIC PAY	2,747,209
RETIRED PAY ACCRUAL	598,216
BASIC ALLOWANCE FOR HOUSING	902,271
SPECIAL PAYS	2,578,946
SOCIAL SECURITY TAX	210,161
TOTAL, BUDGET ACTIVITY 2	7,036,803
ACTIVITY 4: SUBSISTENCE OF ENLISTED PERSONNEL:	
BASIC ALLOWANCE FOR SUBSISTENCE	300,904
SUBSISTENCE-IN-KIND	1,365,832
TOTAL, BUDGET ACTIVITY 4	1,666,736
ACTIVITY 5: PERMANENT CHANGE OF STATION TRAVEL:	
ACCESSION TRAVEL	11,472
TRAINING TRAVEL	9,537
OPERATIONAL TRAVEL	101,482
ROTATIONAL TRAVEL	126,759
SEPARATION TRAVEL	14,826
TRAVEL OF ORGANIZED UNITS	1,344

[In thousands of dollars]

Account	Committee recommendation
TOTAL, BUDGET ACTIVITY 5	265,420
ACTIVITY 6: OTHER MILITARY PERSONNEL COST:	
INTEREST ON SOLDIERS DEPOSITS	21,780
RESERVE INCOME REPLACEMENT PROGRAM	8,200
UNEMPLOYMENT COMPENSATION	142,364
DEATH GRATUITIES	72,900
SGLI EXTRA HAZARD PAYMENTS	116,805
TOTAL, BUDGET ACTIVITY 6	362,049
UNDISTRIBUTED ADJUSTMENTS:	
ACCELERATION OF GROW THE FORCE	420,000
CHANGE IN RESERVE AND GUARD MOBILIZATION LEVELS	−101,000
YEAR OF EXECUTION/RATE CHANGES	246,000
TOTAL, UNDISTRIBUTED ADJUSTMENTS	565,000
TOTAL, MILITARY PERSONNEL, ARMY	12,216,715
MILITARY PERSONNEL, NAVY	
ACTIVITY 1: PAY AND ALLOWANCES OF OFFICERS:	
BASIC PAY	119,911
RETIRED PAY ACCRUAL	22,902
BASIC ALLOWANCE FOR HOUSING	32,930
BASIC ALLOWANCE FOR SUBSISTENCE	3,663
SPECIAL PAYS	35,433
SOCIAL SECURITY TAX	9,173
TOTAL, BUDGET ACTIVITY 1	224,012
ACTIVITY 2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL:	
BASIC PAY	139,495
RETIRED PAY ACCRUAL	26,643
BASIC ALLOWANCE FOR HOUSING	60,550
SPECIAL PAYS	156,124
SOCIAL SECURITY TAX	10,671
TOTAL, BUDGET ACTIVITY 2	393,483
ACTIVITY 4: SUBSISTENCE OF ENLISTED PERSONNEL:	
BASIC ALLOWANCE FOR SUBSISTENCE	14,855
SUBSISTENCE-IN-KIND	14,727
TOTAL, BUDGET ACTIVITY 4	29,582
ACTIVITY 5: PERMANENT CHANGE OF STATION TRAVEL:	
ACCESSION TRAVEL	7,291
OPERATIONAL TRAVEL	12,660
ROTATIONAL TRAVEL	14,073
SEPARATION TRAVEL	5,724
TOTAL, BUDGET ACTIVITY 5	39,748
ACTIVITY 6: OTHER MILITARY PERSONNEL COST:	
RESERVE INCOME REPLACEMENT PROGRAM	3,000
UNEMPLOYMENT COMPENSATION	28,200
DEATH GRATUITIES	1,500
SGLI EXTRA HAZARD PAYMENTS	10,060
TOTAL, BUDGET ACTIVITY 6	42,760
UNDISTRIBUTED ADJUSTMENTS:	
CHANGE IN RESERVE MOBILIZATION LEVELS	21,600
YEAR OF EXECUTION/RATE CHANGES	143,000
TOTAL, UNDISTRIBUTED ADJUSTMENTS	164,600
TOTAL, MILITARY PERSONNEL, NAVY	894,185
MILITARY PERSONNEL, MARINE CORPS	
ACTIVITY 1: PAY AND ALLOWANCES OF OFFICERS:	
BASIC PAY	197,261
RETIRED PAY ACCRUAL	45,947
BASIC ALLOWANCE FOR HOUSING	64,464
BASIC ALLOWANCE FOR SUBSISTENCE	7,260
SPECIAL PAYS	36,371
SOCIAL SECURITY TAX	15,089
TOTAL, BUDGET ACTIVITY 1	366,392
ACTIVITY 2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL:	
BASIC PAY	487,327
RETIRED PAY ACCRUAL	116,280
BASIC ALLOWANCE FOR HOUSING	121,093
SPECIAL PAYS	555,673
SOCIAL SECURITY TAX	37,281
TOTAL, BUDGET ACTIVITY 2	1,317,654
ACTIVITY 4: SUBSISTENCE OF ENLISTED PERSONNEL: BASIC ALLOWANCE FOR SUBSISTENCE	53,848
TOTAL, BUDGET ACTIVITY 4	53,848
ACTIVITY 5: PERMANENT CHANGE OF STATION TRAVEL:	
ACCESSION TRAVEL	3,583
OPERATIONAL TRAVEL	50,195
TOTAL, BUDGET ACTIVITY 5	53,778
ACTIVITY 6: OTHER MILITARY PERSONNEL COST:	
UNEMPLOYMENT COMPENSATION	500
DEATH GRATUITIES	23,700
SGLI EXTRA HAZARD PAYMENTS	20,616
TOTAL, BUDGET ACTIVITY 6	44,816

[In thousands of dollars]

Account	Committee recommendation
UNDISTRIBUTED ADJUSTMENTS:	
ACCELERATION OF GROW THE FORCE	93,600
CHANGE IN RESERVE MOBILIZATION LEVELS	−103,400
TOTAL, UNDISTRIBUTED ADJUSTMENTS	−9,800
TOTAL, MILITARY PERSONNEL, MARINE CORPS	1,826,688
MILITARY PERSONNEL, AIR FORCE	
ACTIVITY 1: PAY AND ALLOWANCES OF OFFICERS:	
BASIC PAY	187,704
RETIRED PAY ACCRUAL	35,851
BASIC ALLOWANCE FOR HOUSING	56,600
BASIC ALLOWANCE FOR SUBSISTENCE	6,416
SPECIAL PAYS	39,793
SOCIAL SECURITY TAX	14,359
TOTAL, BUDGET ACTIVITY 1	340,723
ACTIVITY 2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL:	
BASIC PAY	468,692
RETIRED PAY ACCRUAL	89,520
BASIC ALLOWANCE FOR HOUSING	127,850
SPECIAL PAYS	143,149
SOCIAL SECURITY TAX	35,855
TOTAL, BUDGET ACTIVITY 2	865,066
ACTIVITY 4: SUBSISTENCE OF ENLISTED PERSONNEL:	
BASIC ALLOWANCE FOR SUBSISTENCE	35,749
SUBSISTENCE-IN-KIND	68,793
TOTAL, BUDGET ACTIVITY 4	104,542
ACTIVITY 5: PERMANENT CHANGE OF STATION TRAVEL:	
OPERATIONAL TRAVEL	5,621
TOTAL, BUDGET ACTIVITY 5	5,621
ACTIVITY 6: OTHER MILITARY PERSONNEL COST:	
UNEMPLOYMENT COMPENSATION	16,200
DEATH GRATUITIES	2,200
SGLI EXTRA HAZARD PAYMENTS	21,192
TOTAL, BUDGET ACTIVITY 6	39,592
TOTAL, MILITARY PERSONNEL, AIR FORCE	1,355,544
RESERVE PERSONNEL, ARMY	
ACTIVITY 1: RESERVE COMPONENT TRAINING AND SUPPORT:	
SCHOOL TRAINING	56,100
SPECIAL TRAINING	56,400
RECRUITING AND RETENTION	186,700
YELLOW RIBBON REINTEGRATION PROGRAM	5,000
TOTAL, BUDGET ACTIVITY 1	304,200
TOTAL, RESERVE PERSONNEL, ARMY	304,200
RESERVE PERSONNEL, NAVY	
ACTIVITY 1: RESERVE COMPONENT TRAINING AND SUPPORT:	
PAY GROUP A TRAINING (15 DAYS & DRILLS 24/28)	35,000
SPECIAL TRAINING	22,000
SCHOOL TRAINING	13,000
YELLOW RIBBON REINTEGRATION PROGRAM	2,800
TOTAL, BUDGET ACTIVITY 1	72,800
TOTAL, RESERVE PERSONNEL, NAVY	72,800
RESERVE PERSONNEL, MARINE CORPS	
ACTIVITY 1: RESERVE COMPONENT TRAINING AND SUPPORT:	
SCHOOL TRAINING	15,420
YELLOW RIBBON REINTEGRATION PROGRAM	1,300
TOTAL, BUDGET ACTIVITY 1	16,720
TOTAL, RESERVE PERSONNEL, MARINE CORPS	16,720
RESERVE PERSONNEL, AIR FORCE	
ACTIVITY 1: RESERVE COMPONENT TRAINING AND SUPPORT:	
SPECIAL TRAINING	3,000
YELLOW RIBBON REINTEGRATION PROGRAM	2,000
TOTAL, BUDGET ACTIVITY 1	5,000
TOTAL, RESERVE PERSONNEL, AIR FORCE	5,000
NATIONAL GUARD PERSONNEL, ARMY	
ACTIVITY 1: RESERVE COMPONENT TRAINING AND SUPPORT:	
PAY GROUP A TRAINING (15 DAYS & DRILLS 24/28)	124,400
SPECIAL TRAINING	190,298
SCHOOL TRAINING	441,663
ADMINISTRATION AND SUPPORT	380,386
RECRUITING EFFORTS	75,000
RETENTION EFFORTS	143,000
YELLOW RIBBON REINTEGRATION PROGRAM	15,000
TOTAL, BUDGET ACTIVITY 1	1,369,747
TOTAL, NATIONAL GUARD PERSONNEL, ARMY	1,369,747
NATIONAL GUARD PERSONNEL, AIR FORCE	
ACTIVITY 1: RESERVE COMPONENT TRAINING AND SUPPORT: YELLOW RIBBON REINTEGRATION PROGRAM	4,000

[In thousands of dollars]

Account	Committee recommendation
TOTAL, BUDGET ACTIVITY 1	4,000
TOTAL, NATIONAL GUARD PERSONNEL, AIR FORCE	4,000

GROW THE FORCE

The recommendation includes funding to support the Army and Marine Corps plans to grow their end strength in an effort to better sustain operational tempo and relieve strain on current units.

WOUNDED WARRIOR PROGRAMS

The recommendation fully funds the identified requirements for enhanced Traumatic Servicemembers' Group Life Insurance [TSGLI] benefits and wounded service members' separation pay, and provides additional funding for health care professional bonuses to support the recruitment of additional medical personnel.

COST AND RATE INCREASES

The recommendation includes funding for recent increases for Basic Allowance for Housing, Basic Allowance for Subsistence, Permanent Change of Station, Unemployment Compensation, and Cost of Living Adjustments.

OPERATION AND MAINTENANCE

An appropriation of $34,425,336,000 is recommended for Operation and Maintenance.

The recommendations for each operation and maintenance account are shown below:

[In thousands of dollars]

Account	Committee recommendation
OPERATION & MAINTENANCE, ARMY:	
MANEUVER UNITS	28,089
MODULAR SUPPORT BRIGADES	1,315
ECHELONS ABOVE BRIGADE	29,670
THEATER LEVEL ASSETS	24,466
LAND FORCES OPERATIONS SUPPORT	916
AVIATION ASSETS	59,466
FORCE READINESS OPERATIONS SUPPORT	16,257
FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	408,000
BASE OPERATIONS SUPPORT	41,282
ADDITIONAL ACTIVITIES	14,551,866
COMMANDER'S EMERGENCY RESPONSE PROGRAM	1,226,841
FLIGHT TRAINING	33,214
SUBTOTAL BA–1	16,421,382
SECURITY PROGRAMS	102,130
SERVICEWIDE TRANSPORTATION	700,000
SUBTOTAL BA–4	802,130
TOTAL, OPERATION AND MAINTENANCE, ARMY	17,223,512
OPERATION & MAINTENANCE, NAVY:	
MISSION AND OTHER FLIGHT OPERATIONS	753,193
FLEET AIR TRAINING	81,238
AVIATION TECHNICAL DATA & ENGINEERING SERVICES	1,221
AIR OPERATIONS AND SAFETY SUPPORT	26,586
AIR SYSTEMS SUPPORT	11,279
AIRCRAFT DEPOT MAINTENANCE	118,287
MISSION AND OTHER SHIP OPERATIONS	568,841
SHIP OPERATIONS SUPPORT & TRAINING	4,134
SHIP DEPOT MAINTENANCE	219,268
SHIP DEPOT OPERATIONS SUPPORT	11,618
COMBAT COMMUNICATIONS	4,839
ELECTRONIC WARFARE	4,262
SPACE SYSTEMS AND SURVEILLANCE	12
WARFARE TACTICS	5,657
OPERATIONAL METEOROLOGY AND OCEANOGRAPHY	774
COMBAT SUPPORT FORCES	573,811
EQUIPMENT MAINTENANCE	23,470
IN-SERVICE WEAPONS SYSTEMS SUPPORT	13,500
WEAPONS MAINTENANCE	28,162
OTHER WEAPON SYSTEMS SUPPORT	1,058
SUSTAINMENT, RESTORATION AND MODERNIZATION	2,912
BASE OPERATING SUPPORT	193,072
SUBTOTAL BA–1	2,647,194
SHIP PREPOSITIONING AND SURGE	94,140
FLEET HOSPITAL PROGRAM	7
SUBTOTAL BA–2	94,147
OFFICER ACQUISITION	136
SPECIALIZED SKILL TRAINING	35,340
FLIGHT TRAINING	24,003
RECRUITING AND ADVERTISING	3,887
SUBTOTAL BA–3	63,366
ADMINISTRATION	1,422
EXTERNAL RELATIONS	139
MILITARY MANPOWER AND PERSONNEL MANAGEMENT	523
OTHER PERSONNEL SUPPORT	2,544
SERVICEWIDE COMMUNICATIONS	11,566
SERVICEWIDE TRANSPORTATION	6,985
ACQUISITION AND PROGRAM MANAGEMENT	540
COMBAT/WEAPONS SYSTEMS	155
NAVAL INVESTIGATIVE SERVICE	4,081
SUBTOTAL BA–4	27,955
OTHER PROGRAMS	32,595
COAST GUARD SUPPORT	112,607
TOTAL, OPERATIONS & MAINTENANCE, NAVY	2,977,864
OPERATION & MAINTENANCE, MARINE CORPS:	
OPERATIONAL FORCES	104,772
MARITIME PREPOSITIONING	2
SUSTAINMENT, RESTORATION, & MODERNIZATION	46,040
BASE OPERATING SUPPORT	6,787

[In thousands of dollars]

Account	Committee recommendation
SUBTOTAL BA–1	157,601
RECRUIT TRAINING	333
OFFICER ACQUISITION	7
SPECIALIZED SKILL TRAINING	88
TRAINING SUPPORT	1,293
RECRUITING AND ADVERTISING	
BASE OPERATING SUPPORT	578
SUBTOTAL BA–3	2,299
TOTAL, OPERATION & MAINTENANCE, MARINE CORPS	159,900
OPERATION & MAINTENANCE, AIR FORCE:	
PRIMARY COMBAT FORCES	1,620,673
PRIMARY COMBAT WEAPONS	9,309
COMBAT ENHANCEMENT FORCES	72,599
AIR OPERATIONS TRAINING (OJT, MAINTAIN SKILLS)	10,992
COMBAT COMMUNICATIONS	576,665
DEPOT MAINTENANCE	190,117
FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	72,424
BASE SUPPORT	860,101
NAVIGATION/WEATHER SUPPORT	2,160
OTHER COMBAT OPS SPT PROGRAMS	64,297
MANAGEMENT/OPERATIONAL HQ	66,518
TACTICAL INTEL AND OTHER SPECIAL ACTIVITIES	666
LAUNCH VEHICLES	4
BASE SUPPORT	2,583
SUBTOTAL BA–1	3,549,108
AIRLIFT OPERATIONS	1,843,258
DEPOT MAINTENANCE	63,772
BASE SUPPORT	67,530
SUBTOTAL BA–2	1,974,560
BASE SUPPORT	1,229
SPECIALIZED SKILL TRAINING	98,851
FLIGHT TRAINING	60,135
PROFESSIONAL DEVELOPMENT EDUCATION	174
TRAINING SUPPORT	966
FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	2,414
BASE SUPPORT	6,767
RECRUITING AND ADVERTISING	50
SUBTOTAL BA–3	170,586
LOGISTICS OPERATIONS	72,179
BASE SUPPORT	5,027
OTHER SERVICEWIDE ACTIVITIES	8,129
OTHER PERSONNEL SUPPORT	1,455
SECURITY PROGRAMS	170,431
INTERNATIONAL SUPPORT	21,045
SUBTOTAL BA–4	278,266
TOTAL, OPERATION & MAINTENANCE, AIR FORCE	5,972,520
OPERATION & MAINTENANCE, DEFENSE-WIDE:	
JOINT CHIEFS OF STAFF	26,216
SPECIAL OPERATIONS COMMAND	760,811
SUBTOTAL BA–1	787,027
AMERICAN FORCES INFORMATION SERVICE	7,109
DEFENSE CONTRACT AUDIT AGENCY	8,245
DEFENSE INFORMATION SYSTEMS AGENCY	106,078
DEFENSE LOGISTICS AGENCY	105,815
DEFENSE THREAT REDUCTION AGENCY	2,636
DEPARTMENT OF DEFENSE EDUCATION AGENCY	196,927
DOD HUMAN RESOURCES ACTIVITY	36,670
DEFENSE CONTRACT MANAGEMENT AGENCY	52,000
DEFENSE LEGAL SERVICES AGENCY (DLSA)	12,962
DEFENSE SECURITY COOPERATION AGENCY (DSCA)	1,150,000
OFFICE OF THE SECRETARY OF DEFENSE	27,322
WASHINGTON HEADQUARTERS SERVICES (WHS)	7,210
OTHER PROGRAMS	1,157,561
SUBTOTAL BA–4	2,870,535
TOTAL, OPERATION & MAINTENANCE, DEFENSE-WIDE	3,657,562
OPERATION & MAINTENANCE, ARMY RESERVE:	
AVIATION ASSETS	37,581
ADDITIONAL ACTIVITIES	127,258
TOTAL, OPERATION & MAINTENANCE, ARMY RESERVE	164,839
OPERATION & MAINTENANCE, NAVY RESERVE:	
MISSION AND OTHER FLIGHT OPERATIONS	91,495
INTERMEDIATE MAINTENANCE	48
MISSION AND OTHER SHIP OPERATIONS	6,388
COMBAT COMMUNICATIONS	3,354
COMBAT SUPPORT FORCES	8,372
BASE OPERATING SUPPORT (BOS)	219
TOTAL, OPERATION & MAINTENANCE, NAVY RESERVE	109,876
OPERATION & MAINTENANCE, MARINE CORPS RESERVE:	
OPERATING FORCES	23,149
TRAINING SUPPORT	950
BASE OPERATING SUPPORT	157
FACILITIES, SUSTAINMENT, RESTORATION & MODERNIZATION	46,000
TOTAL, OPERATION & MAINTENANCE, MARINE CORPS RESERVE	70,256
OPERATION & MAINTENANCE, AIR FORCE RESERVE: PRIMARY COMBAT FORCES	165,994

[In thousands of dollars]

Account	Committee recommendation
TOTAL, OPERATION & MAINTENANCE, AIR FORCE RESERVE	165,994
OPERATION & MAINTENANCE, ARMY NATIONAL GUARD:	
AVIATION ASSETS	102,394
ADDITIONAL ACTIVITIES	583,250
TOTAL, OPERATION & MAINTENANCE, ARMY NATIONAL GUARD	685,644
OPERATION & MAINTENANCE, AIR NATIONAL GUARD:	
AIRCRAFT OPERATIONS	
MISSION SUPPORT OPERATIONS	287,369
TOTAL, OPERATION & MAINTENANCE, AIR NATIONAL GUARD	287,369
IRAQ FREEDOM FUND	50,000
AFGHANISTAN SECURITY FORCES FUND:	
MINISTRY OF DEFENSE (MOD) EQUIPMENT AND TRANSPORTATION	54,326
MOD TRAINING	71,182
MOD SUSTAINMENT	513,515
MINISTRY OF INTERIOR (MOI) EQUIPMENT AND TRANSPORTATION	67,328
MOI TRAINING	422,509
MOI SUSTAINMENT	271,140
TOTAL, AFGHANISTAN SECURITY FORCES FUND	1,400,000
IRAQ SECURITY FORCES FUND:	
MINISTRY OF DEFENSE (MOD) EQUIPMENT AND TRANSPORTATION	522,500
MOD TRAINING	66,400
MOD SUSTAINMENT	154,700
MINISTRY OF INTERIOR (MOI) EQUIPMENT AND TRANSPORTATION	332,000
MOI TRAINING	185,000
MOI SUSTAINMENT	86,000
RELATED ACTIVITIES	153,400
TOTAL, IRAQ SECURITY FORCES FUND	1,500,000

COMMANDER'S EMERGENCY RESPONSE PROGRAM

The recommendation includes $1,226,841,000 for the Commander's Emergency Response Program [CERP]. Included in this amount is $479,900,000 for CERP in Afghanistan and $2,000,000 to support our ongoing efforts in the global war on terror in the Philippines. Small scale, humanitarian projects led by the Joint Interagency Task Force—Philippines should have a tremendous impact on combating the spread of terrorist cells in the Philippines. However, the provision of these funds does not represent an invitation to expand CERP beyond its current mission and application.

CERP projects are also currently benefiting the 2.7 million internally displaced Iraqis. The Iraqi Government should devote more of its own resources to returning them to their homes, or resettling them permanently in functioning communities. However, recognizing that CERP is an effective tool for meeting urgent humanitarian needs, the Secretary of Defense is urged to encourage commanders to give priority to humanitarian and reconstruction projects that respond to the needs of internally displaced Iraqis who have settled in their area of responsibility.

CERP has proven beneficial to both U.S. commanders and the Iraqi people, but there is concern over the Department's growing requests for these funds. Since its inception in 2004, this program has grown exponentially, from $180,000,000 in fiscal year 2004 to $956,400,000 in fiscal year 2007. The total fiscal year 2008 level of $1,726,841,000 as recommended, represents an 80 percent increase for the program. Congress provided $500,000,000 in the fiscal year 2008 supplemental bridge appropriation but the Department is obligating funds for this program at a rate that would exceed the authorized level of $977,441,000 before the end of the fiscal year.

While there is a need to maintain commanders' flexibility and control in administering CERP funds, there is concern that, in the absence of any minimum standards for project monitoring or specific performance indicators, commanders exercise varying levels of oversight and typically compile only anecdotal evidence on the impact of projects. Furthermore, CERP funds are administered at the battalion level, often by troops whose Military Operational Specialty has little or no connection to program or acquisition management. The limited information provided to Congress about CERP projects makes it difficult to conduct thorough oversight over how this program is administered, what its actual impact is on the Iraqi people, and how it fits into our overall strategy for Iraq.

To provide Congress sufficient visibility over the use of funding provided for CERP, the Department is directed to: (1) establish minimum guidelines for commanders to follow in monitoring project status and performance indicators to assess the impact of CERP projects, (2) provide more complete information in its quarterly reports to Congress, including: listings of projects by province; project status, such as completed and being used, completed but not sustained, destroyed, vandalized, or not found; the source of each individual initiative, whether it was generated by a local national or the command; the name of the authority or organization who serves as the primary local partner for each project; and the number of local citizens who will benefit from the project, including the number who will be employed in implementing it, and if it directly benefits internally displaced Iraqis. In addition, the report should include information on the nature of the Government of Iraq's commitment to sustain projects requiring government support, and on the impact of CERP projects, individually and collectively, in assisting the United States to carry out its strategy in Iraq.

So Congress may better understand how troops are trained to administer CERP funds, the Secretary of Defense is directed to submit to the congressional defense committees, within 45 days of enactment of this act, a detailed report on the training provided to troops authorized to manage or disperse CERP funds. The report should include the duration of the training, its primary objectives, and a syllabus of the training course.

For greater clarity on how commanders incorporate the use of CERP funds into their operational planning, the Secretary of Defense is directed to provide a report to the congressional defense committees, no later than September 4, 2008, on operational planning for the use of CERP. The report should include plans from each of the current Multinational Division [MND] commands in Iraq and each of the current Task Force commands in Afghanistan, to include information on the criteria used for prioritizing individual CERP projects and how the use of CERP funds is intended to advance the tactical and strategic objectives.

CONTRACT SERVICES

The continued lack of transparency and accountability with regard to contracts and contractors serving in both theaters of operation (Iraq and Afghanistan) is concerning. The Department of Defense has indicated a need for approximately $40,000,000,000 of operation and maintenance funding for contracted services in this supplemental appropriation. This includes $6,000,000,000 for the Army-managed Logistics Civil Augmentation Program [LOGCAP], which provides for a spectrum of services to include power generation, management of facilities, dining operations, latrines, water systems, fire protection and laundry services. Approximately $5,400,000,000 was expended by the Army on LOGCAP contracts in 2007.

Within 90 days of enactment of this act, the Secretary of Defense is directed to submit a comprehensive report to the House and the Senate Committees on Appropriations that provides the following information for each existing operations and maintenance contract in excess of $1,000,000: contractor name; amount; purpose; start and end date; type of contract; and amount of awards per fiscal year, if applicable.

This report should also identify the Department of Defense organization responsible for oversight of the contracts and should reflect the type of services provided, such as vehicle maintenance, food service, security, information technology support, reconstruction, analysis, and other relevant information.

This report should also include a discussion of the roles and responsibilities of the following organizations and how they work collaboratively to ensure appropriate contract oversight in theaters of operation for Iraq and Afghanistan: LOGCAP; AFCAP; Defense Reconstruction Support Office; Joint Contracting Command Iraq/Afghanistan; Deputy Assistant Secretary—Army (Policy

and Procurement)—Iraq and Afghanistan; and Project and Contracting Office, Washington.

Further, the report should include the number of Department of Defense military and Federal civilian personnel assigned to each of these offices, the number of contractors assigned to each office and the roles the contractors perform.

As part of this report, should the Department of Defense determine that it has insufficient in-house capability to effectively monitor these contracts, it should then develop a robust staffing proposal and submit it to the House and the Senate Committees on Appropriations for consideration in the fiscal year 2009 Defense Appropriations Act. The report shall be submitted in unclassified form, but may contain a classified annex.

SUBSISTENCE CONTRACTS

The Army requested $987,000,000 to fund purchases of subsistence items in support of Department of Defense civilian employees and contractors deployed to the Iraq and Afghanistan areas of operations. This also includes subsistence that is provided to these individuals within the Department of Defense dining facilities.

The Army estimates that 5,000 Department of Defense civilians and 73,000 contractor personnel constitute the population of ''Department of Defense authorized personnel''. This is an average cost for subsistence of nearly $13,000 per individual per year.

There are significant unanswered questions regarding the management of this overall process, as well as the absence of appropriate internal control procedures. For example, how the Department manages access to the dining facilities; the number of civilian employees and contractors who dine in Department of Defense dining facilities; why the cost per person is so high; and the number of contractors and subcontractors who provide subsistence to the Department of Defense in this theater of operations.

Based on these unresolved issues, the recommendation includes a 10 percent reduction to the nearly $1,000,000,000 request for this program to encourage better management and accountability of subsistence funds. Currently the Department's Cost of War Report does not account for obligation of funds for subsistence. The Secretary of Defense is directed to, within 90 days of enactment of this act, submit a comprehensive report to the Committees on Appropriations of the House and the Senate which: (1) Identifies the number of contractors dining in the Department of Defense facilities in and around the Iraq and Afghanistan theaters of operations and a description of the method for charging the subsistence cost back to the contractor; (2) Lists the total cost and the cost elements in the prior and current years for subsistence for Department of Defense civilians and contractors deployed to the Iraq and Afghanistan areas of operations and dining in DOD facilities; (3) Cites the Department's policy on the movement of freight in general and subsistence items specifically in and around the Iraq and Afghanistan theaters of operation; the method for ensuring the best value subsistence contracts are awarded; and describes the method for ensuring the most fuel efficient and effective mode of transportation is used; (4) Identifies the number of contractors and subcontractors supplying subsistence items to contractors and civilians deployed to the Iraq and Afghanistan areas of operations (by location); the number and types of subsistence contracts from local vendors in Iraq and Afghanistan, and the method and factors used to determine local vs. non local purchase of these items in and around the Iraq and Afghanistan theaters of operation; and (5) Provides the Department's policy on access to dining facilities in the theaters of operations and associated internal control procedures.

DEPARTMENT OF DEFENSE PUBLIC-PRIVATE COMPETITIONS

The Office of Management and Budget's [OMB] influence over the Department of Defense's public-private competitions is concerning. Section 325 of the 2008 National Defense Authorization Act (Public Law 110–181) prohibits OMB from directing or requiring any initiation, continuation, or completion of a public-private competition or the Department taking action based on such an OMB direction or requirement. Questions have been raised as to whether this provision is being implemented. If OMB continues to influence public-private competitions and contracting out of Federal employees at the Department of Defense stronger provisions may be warranted.

SUPPORT TO GLOBAL REPOSITIONING OF GROUND FORCES

The impact to the Army and Marine Corps of rebasing activities, particularly as large numbers of service members return from overseas bases to the continental United States [CONUS], must be addressed. The recommendation provides $408,000,000 to the Army's Facilities Sustainment, Restoration, and Modernization program and $92,000,000 to the Marine Corps' Facilities Sustainment, Restoration, and Modernization program to offset the growing infrastructure costs associated with the global repositioning of forces. These funds will be used to repair barracks, improve child care facilities, and enhance community services at Army and Marine Corps bases throughout the United States.

OPERATING TEMPO

The supplemental funding requested in the operation and maintenance accounts is largely a function of anticipating operating tempo for continuation of military operations in Afghanistan and Iraq through September 2008. The actual operating tempo in fiscal years 2007 and 2008 has differed from the estimated levels. Therefore, the recommendation provides operation and maintenance funding to account for the actual operating tempo.

THE JOINT STAFF

The recommendation includes no funding for the Combating Terrorism Readiness Fund because the requirement was funded through the Department of Defense Appropriations Act, 2008 (Public Law 110–116).

SPECIAL OPERATIONS COMMAND INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE [ISR] ACCELERATION

The recommendation includes an additional $76,450,000 in Operation and Maintenance, Defense-Wide to accelerate the fielding of ISR capabilities to Special Operations Command for use in missions pertaining to high value targets. The Secretary of Defense is urged to include sustainment costs for these items in future budget requests.

DEFENSE LOGISTICS AGENCY: LITHIUM BATTERIES SUPPLIES

Primary lithium batteries have been and remain a critical consumable warfighting asset for our military. A reliable and sustainable U.S. manufacturing source for these supplies is critical to maintaining the full warfighting capability of our military forces. The Defense Logistics Agency is encouraged to take the necessary actions to ensure that at least one supplier of $LiSO_2$ batteries and one supplier of $LiMnO_2$ batteries continue manufacturing in the United States with a reasonable sustaining rate of production.

DEFENSE THREAT REDUCTION AGENCY

The recommendation includes no funding for NIMBLE ELDER because the requirement was funded through the Department of Defense Appropriations Act, 2008 (Public Law 110–116).

FAMILY ADVOCACY PROGRAM

The recommendation includes $50,000,000 for family advocacy programs to provide counseling and family assistance including child psychologists, Parents as Teachers and other intervention efforts. This funding will enhance the activities of the Family Advocacy Program [FAP] and provide for children and families managing the difficult challenges of military service. There is concern about the growing need for family members to have access to professional counseling to help alleviate the mental stresses associated with deployments. These activities provide programs, products and services to help mitigate the disruption and stress in the military family when a service member is deployed, killed or seriously wounded.

DEFENSE HUMAN RESOURCES ACTIVITY

The recommendation includes no funding for Homeland Security Presidential Directive 12 because the requirement was funded through the Department of Defense Appropriations Act, 2008 (Public Law 110–116).

DEFENSE SECURITY COOPERATION AGENCY

The recommendation includes $800,000,000 for coalition support funds and $200,000,000 for lift and sustainment in Iraq and Afghanistan. It also includes an additional $150,000,000 for the Global Train and Equip Program. The Department of State is tasked to train and equip allied nations for counterterrorism operations, yet the Department of Defense continues to request funds to augment these efforts due to the global war on terror. Training allied nations is primarily the responsibility of the Department of State. As such, the administration is urged to request the appropriate level of funding for the Global Train and Equip Program entirely within the Department of State in the next fiscal year.

OFFICE OF THE SECRETARY OF DEFENSE

There is deep concern over the waste, fraud, and abuse that has occurred in the Department's contracting activities that support contingency operations overseas. The Office of the Under Secretary of Defense for Acquisition, Technology and Logistics [USD(AT&L)] is tasked with contractor oversight in forward areas of operations. In an effort to further many of the initiatives developed by USD(AT&L), the recommendation includes additional resources to fully fund these requirements, including: $8,000,000 for the Synchronized Predeployment and Operational Tracker [SPOT], $2,500,000 for the Joint Contingency Contract Support Office [JCCSO], $2,000,000 for Military Non Contracting Officer Training, and $400,000 for the Materiel Readiness Board [MRB]. The recommendation also includes $3,000,000 for the Wartime Contracting Commission, established by the National Defense Authorization Act for fiscal year 2008 (Public Law 110–181), and $1,200,000 for the WMD Commission.

IRAQ FREEDOM FUND

The recommendation includes $50,000,000 for the Iraq Freedom Fund only for the Task Force to Improve Business and Stability Operations—Iraq to execute the Factory Restart Program.

AFGHANISTAN AND IRAQ SECURITY FORCES

Reprogramming.—The Department of Defense has been provided significant flexibility in executing this program in the past but new reprogramming procedures are required at this juncture. With respect to the Iraq Security Forces Fund and the Afghanistan Security Forces Fund, the Department is directed to submit prior approval reprogramming requests to the congressional

defense committees for proposed transfers of funds in excess of $20,000,000, to the Infrastructure subactivity groups or other construction related projects.

Infrastructure.—The Department of Defense is directed to provide the congressional defense committees with a detailed report by August 1, 2008 on current and future infrastructure requirements for the Iraq and Afghanistan Security Forces. The report shall detail all infrastructure projects that have been previously funded, projects that are planned, and projects that require future funding from either the United States or the Governments of Iraq and Afghanistan. The projects shall be broken out by Ministry of Defense and Ministry of Interior requirements, year or projected year of funding, source of funding, and current status of project.

Logistics.—The Iraq Security forces will not be able to operate independent of coalition support unless they have an organic logistics capability of their own. The Department of Defense is directed to provide the congressional defense committees with a report no later than 30 days after enactment of this act, on the plan for an independent logistics capability within the Iraq Security Forces. The plan should address required support facilities at the national, regional, and base levels, motor transport capabilities, life support self sufficiency, logistics training, mechanics training, ammunition re-supply (decentralization, distribution, and security), fuel (decentralization, distribution, and security), medical supply and services, and depot warehousing, maintenance, and capacity. The report should also include a resource plan to reach these goals.

Trainers.—There is deep concern that the Department of Defense has only been able to resource 44 percent of the required trainers for the Afghan National Army and only 39 percent for the Afghan National Police. While progress is being made on training and equipping these forces, the shortfall of capable trainers severely hampers our ability to further this momentum. There are enormous demands for this low density skill to support this mission, and the recommendation provides the Department $50,000,000 for additional contract personnel to address this shortfall, including: $25,000,000 for the training of the Afghanistan National Army for mentors at the corps and brigade levels for intelligence, communications, operations, and force protection, for contract mobile training teams, and for contract Counter Insurgency Academy instructors; and $25,000,000 for the training of the Afghanistan National Police to include contract logistics system mentors, and contractors for the Afghanistan National Police National Training Center.

PISTOLS FOR AFGHAN ARMY AND AFGHAN NATIONAL POLICE

Poor quality pistols were provided to the Afghan National Police and the Afghan National Army in 2005 and 2006. While they have no record of manufacturing defects in service, the 5,000 pistols purchased for the Afghan National Army, and the 51,175 purchased for the Afghan National Police, under the U.S. Foreign Military Sales program, through the U.S. Army Security Assistance Command, lack important features desired in a quality service pistol. A key missing feature is a positive external safety mechanism, although the pistol does have a trigger safety. It appears that there were two prominent motivations for selection of the current 9mm pistol. The first was cost, and for the Afghan National police, the second key consideration was the fact that the pistol already was in service with the Afghan National Army. Based on concerns expressed by U.S. trainers, ongoing procurements of pistols under 2007 and 2008 contracts are delivering a pistol manufactured with the desired features that were lacking in the pistols procured in 2005 and 2006. Future purchases will be made by competitive bid and the requirements will specify features consistent with the U.S. M9 service pistol. The government agencies of the United States and Afghanistan are commended for having made these appropriate adjustments in the acquisition of pistols for the Afghan National Army and Afghan National Police. They are cautioned that haste and incomplete definition of requirements, and inadequate testing, can lead to acquisition of military equipment that once in use by the military may prove to be inadequate in performance, reliability and safety. Finally, the Department of Defense and the Department of State are urged to work cooperatively to ensure that programs for the provision of equipment to the Afghan National Army and Afghan National Police employ rigorous requirements definition and disciplined contracting procedures, and that the Secretary of Defense initiate a review of the utility of pistols provided to the Afghan National Army and Afghan National Police under U.S. Foreign Military Sales transactions and assist where necessary in the replacement and demilitarization of inferior pistols.

PROCUREMENT

An appropriation of $42,006,355,000 is recommended for Procurement.

The recommendations for each procurement account are shown below:

[In thousands of dollars]

Account	Committee recommendation
AIRCRAFT PROCUREMENT, ARMY:	
UTILITY FIXED WING CARGO AIRCRAFT	7,500
GUARDRAIL MODS (TIARA)	33,000
ARL MODS (TIARA) (Note: Includes $3,000,000 for Airborne ISR Sensor Reset)	28,000
AH–64 MODS	70,000
CH–47 CARGO HELICOPTER MODS	311,107
UH–60 MODS (Note: Includes $30,000,000 for A to L Initiative, and $14,650,000 for Aircraft Safety Enhancements)	44,650
KIOWA WARRIOR	38,000
ASE INFRARED CM	403,535
COMMON GROUND EQUIPMENT	356
AIRCREW INTEGRATED SYSTEMS	10,200
AIR TRAFFIC CONTROL	7,763
TOTAL, AIRCRAFT PROCUREMENT, ARMY	954,111
MISSILE PROCUREMENT, ARMY:	
HELLFIRE MSL (BASIC/IHW/HFII)	228,426
JAVELIN	121,210
GUIDED MLRS ROCKET (GMLRS)	67,200
ARMY TACTICAL MISSILE SYSTEM (ATACMS) BLK IA (Note: Funds 84 unitary missiles)	92,000
PATRIOT MODS	25,000
ITAS/TOW MODIFICATIONS	27,820
TOTAL, MISSILE PROCUREMENT, ARMY	561,656
PROCUREMENT OF W&TCV, ARMY:	
BRADLEY BASE SUSTAINMENT	921,000
STRYKER VEHICLE	1,989,581
FIST VEHICLE (MOD)	65,000
BRADLEY FIGHTING VEHICLE SYSTEMS SERIES (MOD)	84,900
HOWITZER, MED SP FT 155MM M109A6 (MOD)	41,211
M1 ABRAMS TANK (MOD)	388,585
HOWITZER, LIGHT, TOWED, 105MM, M119	17,600
IMPROVED RECOVERY VEHICLE (M88 MOD)	25,000
ABRAMS UPGRADE PROGRAM (M1A2 SEP)	1,100,000
M240 MEDIUM MACHINE GUN (7.62mm)	61,541
MACHINE GUN, CAL .50 M2 ROLL	27,327
M249 SAW MACHINE GUN, 5.56MM (SAW)	1,784
MK–19 GRENADE MACHINE GUN (40mm)	30,614
MORTAR SYSTEMS (Note: Includes $15,000,000 for Expanded Organic Mortar Capability)	48,459
M107, CAL 50, SNIPER RIFLE	402
XM320 GRENADE LAUNCHER MODULE (GLM)	3,500
M4 CARBINE	79,469
SHOTGUN, MODULAR ACCESSORY SYSTEM (MASS)	2,400
COMMON REMOTELY OPERATED WEAPONS STATION (CROWS)	210,000
HOWITZER, LT WT 155MM	52,000
M4 CARBINE MODS	125,115
M2 50 CAL MACHINE GUN MODS	5,000
M249 SAW MACHINE GUN MODS	7,056
M240 SAW MACHINE GUN MODS	3,271
PHALANX MODS	150,000
MODIFICATIONS LESS THAN $5.0M (WOCV-WTCV)	14,454
SMALL ARMS EQUIPMENT (SOLDIER ENHANCEMENT PROGRAM)	8,202

[In thousands of dollars]

Account	Committee recommendation
TOTAL, PROCUREMENT OF W&TCV, ARMY	5,463,471
PROCUREMENT OF AMMUNITION, ARMY:	
7.62MM ALL TYPES	10,000
CTG, .50 CAL, ALL TYPES	13,500
40MM ALL TYPES	9,300
MODULAR ARTILLERY CHARGE SYSTEM, ALL TYPES	2,000
SHOULDER FIRED ROCKETS ALL TYPES	20,000
ROCKET, HYDRA 70, ALL TYPES	8,000
DEMOLITION MUNITIONS ALL TYPES	8,000
GRENADES ALL TYPES	10,000
SIMULATORS ALL TYPES	8,000
NON-LETHAL AMMUNITION ALL TYPES	54,000
ITEMS LESS THAN $5M	1,500
PROVISION OF INDUSTRIAL FACILITIES	200,600
TOTAL, PROCUREMENT OF AMMUNITION, ARMY	344,900
OTHER PROCUREMENT, ARMY:	
TACTICAL TRAILERS/DOLLY SETS	232,316
SEMITRAILERS, FLATBED	37,840
SEMITRAILERS, TANKERS	67,318
HI MOB MULTI-PURP WHEELED VEHICLE (HMMWV) (Note: Includes $23,500,000 for Roll Over Trainers for Home Station, Mob Station, and Theater)	1,621,530
FAMILY OF MEDIUM TACTICAL VEH (FMTV)	793,600
FIRE TRUCKS & ASSOCIATED FIREFIGHTING EQUIPMENT	45,524
FAMILY OF HEAVY TACTICAL VEH (FHTV) (Note: Includes $185,000,000 for HEMTT Wrecker)	2,324,519
ARMORED SECURITY VEHICLES (ASV)	309,354
MINE PROTECTION VEHICLE FAMILY	179,440
TRUCK, TRACTOR, LINE HAUL, M915/M916	520,302
HEAVY EXPANDED MOBILE TACTICAL TRUCK EXTENDED SERVICE	273,148
HMMWV RECAPITALIZATION PROGRAM	325,000
MODIFICATION OF IN-SERVICE EQUIPMENT (Note: Includes $13,000,000 for Kevlar Overhead Protective Gunners Kits, and $7,000,000 for Spark Mine Rollers)	959,599
HEAVY ARMORED SEDAN	3,500
PASSENGER CARRYING VEHICLES	5,000
NONTACTICAL VEHICLES, OTHER	600
SHF TERM	22,822
SAT TERM, EMUT (SPACE)	9,800
NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE)	28,000
SMART-T (SPACE)	2,041
MOD OF IN-SVC EQUIP (TAC SAT) (Note: Funds additional communications links (SIPR/NIPR))	38,100
ARMY GLOBAL CMD & CONTROL SYS (AGCCS)	2,510
ARMY DATA DISTRIBUTION SYSTEM (DATA RADIO)	23,540
SINCGARS FAMILY	500,347
BRIDGE TO FUTURE NETWORKS	1,748,371
COMMS-ELEC EQUIP FIELDING	4,000
COMBAT SURVIVOR EVADER LOCATOR (CSEL) (Note: Includes $35,000,000 for CSEL Radios for ARNG and SOF)	120,000
RADIO, IMPROVED HF (COTS) FAMILY	455,000
MEDICAL COMM FOR CBT CASUALTY CARE (MC4)	74,655
CI AUTOMATION ARCHITECTURE	7,410
TSEC—ARMY KEY MGT SYS (AKMS)	75,600
INFORMATION SYSTEM SECURITY PROGRAM-ISSP (Note: Includes $10,500,000 for Biometric Automated Tool Sets)	143,891
INFORMATION SYSTEMS	9,546
ALL SOURCE ANALYSIS SYS (ASAS) (MIP)	103,500
PROPHET GROUND (MIP)	23,000
TACTICAL UNMANNED AERIAL SYS (TUAS) MIP	233,245
SMALL UNMANNED AERIAL SYSTEM (SUAS)	24,174
DIGITAL TOPOGRAPHIC SPT SYS (DTSS) (MIP)	3,800
TACTICAL EXPLOITATION SYSTEM (MIP)	19,500
DCGS–A (MIP)	62,331
ITEMS LESS THAN $5.0M (MIP)	15,300
LIGHTWEIGHT COUNTER MORTAR RADAR	10,470
COUNTERINTELLIGENCE/SECURITY COUNTERMEASURES	149,937
NIGHT VISION DEVICES (Note: Includes $30,000,000 for Mini-Thermal Binoculars)	435,394
NIGHT VISION, THERMAL WEAPON SIGHT	50,000
RADIATION MONITORING SYSTEMS	1,554
COUNTER-ROCKET, ARTILLERY & MORTAR (C-RAM)	245,000
ARTILLERY ACCURACY EQUIP	2,800
ENHANCED PORTABLE INDUCTIVE ARTILLERY FUZE SETTER	87
PROFILER	75,483
MOD OF IN-SVC EQUIP (Firefinder Radars)	21,500
FORCE XXI BATTLE CMD BRIGADE & BELOW (FBCB2)	425,110
LIGHTWEIGHT LASER DESIGNATOR/RANGEFINDER (LLDR)	57,000
COMPUTER BALLISTICS: LHMBC XM32	10,550
MORTAR FIRE CONTROL SYSTEM	6,192
COUNTERFIRE RADARS	174,000
INTEGRATED MET SYS SENSORS (IMETS)—MIP	1,400
TACTICAL OPERATIONS CENTERS	263,709
FIRE SUPPORT CMD & CONTROL C2 FAMILY	19,248
FAAD C2	21,500
AIR & MSL DEFENSE PLANNING & CONTROL SYS (AMD PCS)	45,200
KNIGHT FAMILY	18,077
AUTOMATIC IDENTIFICATION TECHNOLOGY	71,030
TC AIMS II	56,290
TACTICAL INTERNET MANAGER	12,400
MANEUVER CONTROL SYSTEM (MCS)	57,905
SINGLE ARMY LOGISTICS ENTERPRISE (SALE)	77,681
AUTOMATED DATA PROCESSING EQUIPMENT	9,949
CSS COMMUNICATIONS	227,879
SEQUOYAH FOREIGN LANGUAGE TRANSLATION SYSTEM	12,813
RECONNAISSANCE SYSTEMS, NUCLEAR BIOLOGICAL	72,000
CBRN SOLDIER PROTECTION	83,065
SMOKE & OBSCURANT FAMILY: SOF	1,098
TACTICAL BRIDGING	60,000
TACTICAL BRIDGE, FLOAT-RIBBON	42,500
GRND STANDOFF MINE DETECTION SYSTEM (GSTAMIDS) (Note: Funds Explosive Detection Equipment—FLIR)	19,500
EXPLOSIVE ORDNANCE DISPOSAL EQUIP	7,650
HEATERS AND ENVIRONMENTAL CONTROL UNITS	13,512
LAUNDRIES, SHOWERS, AND LATRINES	5,200
SOLDIER ENHANCEMENT (Note: Includes $102,000,000 for Land Warrior)	110,757
FORCE PROVIDER	9,000
FIELD FEEDING EQUIPMENT	12,060
CARGO AERIAL DELIVERY PROGRAM	49,150
QUALITY SURVEILLANCE EQUIPMENT	65,364
DISTRIBUTION SYSTEMS, PETROLEUM & WATER	64,549
WATER PURIFICATION SYSTEMS	8,135
COMBAT SUPPORT MEDICAL	8,078
MOBILE MAINTENANCE	265,625
GRADER, MTZD, HVY	788
SCRAPERS, EARTHMOVING	1,438
LOADERS	9,502
HYDRAULIC EXCAVATOR	400

[In thousands of dollars]

Account	Committee recommendation
CRANES	30,000
HIGH MOBILITY ENGINEER EXCAVATOR (HMEE) FOS	14,609
CONST EQUIP ESP	9,500
GENERATORS AND ASSOCIATED EQUIPMENT	152,258
ROUGH TERRAIN CONTAINER HANDLER	109,414
ALL TERRAIN LIFTING ARMY SYSTEM	33,381
TRAINING DEVICES, NONSYSTEM	342
CALIBRATION SETS EQUIPMENT	57,307
INTEGRATED FAMILY OF TEST EQUIPMENT	133,918
TEST EQUIPMENT MODERNIZATION (TEMOD)	10,840
RAPID EQUIPPING SOLDIER SUPPORT EQUIPMENT	50,592
PHYSICAL SECURITY SYSTEMS (OPA3) (Note: Funds Unattended Sensors for Situational Awareness)	2,791
MODIFICATION OF IN-SVC EQUIP (OPA3)	23,007
BUILDING PRE-FAB RELOCATABLE	134,469
CLASSIFIED PROGRAMS	570
AMC CRITICAL ITEMS	131,740
WARLOCKS	34,000
BASE EXPEDITIONARY TARGETING SURVEILLANCE SYSTEMS—COMBINED (BETSS–C)	490,000
TOTAL, OTHER PROCUREMENT, ARMY	16,337,340
AIRCRAFT PROCUREMENT, NAVY:	
EA–18G (Note: Provides 3 aircraft)	225,000
F/A–18E/F (FIGHTER) HORNET (MYP) (Note: Provides 13 aircraft)	768,040
V–22 (MEDIUM LIFT) (Note: Provides 2 aircraft)	140,500
MH–60S (MYP) (Note: Provides 2 aircraft)	68,200
MH–60R (Note: Provides 2 aircraft)	70,400
KC–130J (Note: Provides 9 aircraft)	602,400
EA–6 SERIES	192,500
AV–8 SERIES (Note: Funding for Litening Pods)	3,200
F–18 SERIES	60,264
H–46 SERIES	18,200
AH–1W SERIES	33,974
H–53 SERIES (Note: No funding for AMARC or IMDS)	63,700
SH–60 SERIES	6,696
H–1 SERIES	42,134
P–3 SERIES	313,900
C–130 SERIES	28,100
EA–6 SERIES	1,000
EXECUTIVE HELICOPTERS SERIES	3,360
SPECIAL PROJECT AIRCRAFT	5,610
POWER PLANT CHANGES	6,300
COMMON ECM EQUIPMENT	136,000
COMMON DEFENSIVE WEAPON SYSTEM (Note: Funds Marine Corps Helicopter Defensive Weapons)	3,500
V–22 (TILT/ROTOR ACFT) OSPREY SERIES (Note: Includes funding for Defensive Weapon System)	45,992
SPARES AND REPAIR PARTS (Note: Includes funding for UH–1Y first deployment)	412,412
COMMON GROUND EQUIPMENT	9,800
WAR CONSUMABLES	16,072
SPECIAL SUPPORT EQUIPMENT	286,000
TOTAL, AIRCRAFT PROCUREMENT, NAVY	3,563,254
WEAPONS PROCUREMENT, NAVY:	
TOMAHAWK (Note: Provides 123 missiles)	103,460
SLAM-ER (Note: Provides 9 missile kits)	13,500
HELLFIRE (Note: Provides 525 missiles)	44,000
SMALL ARMS AND WEAPONS	22,196
CIWS MODS	67,000
MARINE CORPS TACTICAL UNMANNED AERIAL SYSTEM	67,300
TOTAL, WEAPONS PROCUREMENT, NAVY	317,456
PROCUREMENT OF AMMUNITION, NAVY & MARINE CORPS:	
JOINT DIRECT ATTACK MUNITION (JDAM)	5,000
AIR EXPENDABLE COUNTERMEASURES	6,625
OTHER SHIP GUN AMMUNITION	42
SMALL ARMS AND LANDING PARTY AMMUNITION	32,928
PYROTECHNIC AND DEMOLITION	63
SMALL ARMS AMMUNITION	27,644
LINEAR CHARGES, ALL TYPES	3,874
40 MM, ALL TYPES	23,096
60 MM, ALL TYPES	30,252
81 MM, ALL TYPES	35,002
120 MM, ALL TYPES	59,021
CTG 25 MM, ALL TYPES	671
GRENADES, ALL TYPES	9,384
ROCKETS, ALL TYPES	8,273
ARTILLERY, ALL TYPES	51,033
DEMOLITION MUNITIONS, ALL TYPES	3,538
FUZE, ALL TYPES	881
NON LETHALS	5,615
AMMO MODERNIZATION	2,002
ITEMS LESS THAN $5 MILLION	1
TOTAL, PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS	304,945
OTHER PROCUREMENT, NAVY:	
POLLUTION CONTROL EQUIPMENT	11,000
STANDARD BOATS	19,396
TACTICAL SUPPORT CENTER	3,060
SHIPBOARD IW EXPLOIT (Note: No funding for DDG–51 equipment)	28,000
SUBMARINE SUPPORT EQUIPMENT PROGRAM (Note: No funding for antenna upgrades)	17,100
GCCS–M EQUIPMENT	920
MATCALS	26,890
COMMON IMAGERY GROUND SURFACE SYSTEM	38,000
SHIP COMMUNICATIONS AUTOMATION	12,021
EXPEDITIONARY AIRFIELDS	29,750
METEOROLOGICAL EQUIPMENT (Note: No funding for NITES upgrades)	5,300
EXPLOSIVE ORDNANCE DISPOSAL EQUIPMENT	73,400
PASSENGER CARRYING VEHICLES	4,530
CONSTRUCTION & MAINTENANCE EQUIPMENT	111,100
TACTICAL VEHICLES	104,615
AMPHIBIOUS EQUIPMENT	350
ITEMS UNDER $5 MILLION (Note: Includes $3,600,000 for Rugged Deployable Satellite Communications)	126,331
MATERIALS HANDLING EQUIPMENT	832
SPECIAL PURPOSE SUPPLY SYSTEMS	695,000
COMMAND SUPPORT EQUIPMENT	40,109
C4ISR EQUIPMENT	16,900
PHYSICAL SECURITY EQUIPMENT	34,306
SPARES AND REPAIR PARTS	225

[In thousands of dollars]

Account	Committee recommendation
TOTAL, OTHER PROCUREMENT, NAVY	1,399,135
PROCUREMENT, MARINE CORPS:	
AAV7A1 PRODUCT IMPROVEMENT PROGRAM (PIP)	26,567
LIGHT ARMORED VEHICLE (LAV) PIP	43,901
IMPROVED RECOVERY VEHICLE (IRV)	8,247
M1A1 FIREPOWER ENHANCEMENTS	90
155MM LIGHTWEIGHT TOWED HOWITZER	62,400
WEAPONS AND COMBAT VEHICLES UNDER $5 MILLION	16,695
MODULAR WEAPON SYSTEM	17,098
MODIFICATION KITS (BA2)	14,706
WEAPONS ENHANCEMENT PROGRAM	34,223
JAVELIN	10,000
MODIFICATION KITS (BA3)	949
UNIT OPERATIONS CENTER (Note: Includes one year logistics support)	84,700
REPAIR AND TEST EQUIPMENT	7,638
COMBAT SUPPORT SYSTEM	8,435
MODIFICATION KITS (BA4)	15,584
ITEMS UNDER $5M (COMM & ELEC INFRASTRUCTURE SUPPORT)	2,409
AIR OPERATIONS C2 SYSTEMS	78,593
RADAR SYSTEMS	22,900
FIRE SUPPORT SYSTEM	18,075
INTELLIGENCE SUPPORT EQUIPMENT	26,348
NIGHT VISION EQUIPMENT	153,631
COMMON COMPUTER RESOURCES	87,410
COMMAND POST SYSTEMS	43,416
RADIO SYSTEMS (Note: No funding for Enhanced Land Mobile Radios)	359,765
COMMUNICATIONS SWITCHING & CONTROL SYSTEMS	22,913
5/4T TRUCK HMMWV (MYP)	197,683
MOTOR TRANSPORT MODIFICATIONS	377,962
MEDIUM TACTICAL VEH REPLACEMENT	13,676
TRAILERS	43,000
FAMILY OF TACTICAL TRAILERS	4,402
ITEMS LESS THAN $5 MILLION (BA5)	8,048
ENVIRONMENTAL CONTROL EQUIPMENT ASSORTED	2,829
BULK LIQUID EQUIPMENT	13,189
TACTICAL FUEL SYSTEMS	21,702
POWER EQUIPMENT ASSORTED	76,080
AMPHIBIOUS SUPPORT EQUIPMENT	6,343
EOD SYSTEMS	124,563
MATERIAL HANDLING EQUIPMENT	17,242
TRAINING DEVICES	30,300
CONTAINER FAMILY	18,032
FAMILY OF CONSTRUCTION EQUIPMENT	37,383
FAMILY OF INTERNALLY TRANSPORTED VEHICLE (ITV)	18,000
BRIDGE BOATS	13,195
RAPID DEPLOYABLE KITCHEN	68
ITEMS LESS THAN $5 MILLION (BA6)	4,007
SPARES AND REPAIR PARTS	2,993
TOTAL, PROCUREMENT, MARINE CORPS	2,197,390
AIRCRAFT PROCUREMENT, AIR FORCE:	
C–17 (Note: Includes funding for 15 C–17 aircraft)	3,604,500
C–130J (Note: Includes funding for 18 C–130J aircraft and 7 MC–130J aircraft)	1,802,300
CV–22 OSPREY (Note: deletes funding for initial spares)	375,900
REAPER UAV (Note: Includes funding for 18 Reaper systems)	340,700
B–1 (Note: No funding included for Digital Mission Recorder)	40,100
B–52	10,395
F–15 (Note: Funding not included for BLOS, Tactical Targeting Network and 56 JHMCS)	139,158
F–16 (Note: Includes no less than $50,000,000 for the Air National Guard SLOS/BLOS radios and targeting pods upgrades)	72,900
C–5 (Note: Fully funds aft crown skin project)	27,400
C–17	72,000
C–32	43,000
C–37	11,000
C–40	39,000
C–130 (Note: Includes radar upgrades for LC–130 aircraft)	152,640
COMPASS CALL	6,500
DARP	40,000
E–3	25,000
HH–60	6,900
INITIAL SPARES/REPAIR PARTS	36,900
AIRCRAFT REPLACEMENT SUPPORT EQUIPMENT	100,000
OTHER WAR CONSUMABLES	68,900
OTHER PRODUCTION CHARGES	88,730
TOTAL, AIRCRAFT PROCUREMENT, AIR FORCE	7,103,923
MISSILE PROCUREMENT, AIR FORCE:	
PREDATOR HELLFIRE MISSILE	65,143
ADVANCED CRUISE MISSILE MODS	600
INITIAL SPARES/REPAIR PARTS	1,200
TOTAL, MISSILE PROCUREMENT, AIR FORCE	66,943
PROCUREMENT OF AMMUNITION, AIR FORCE:	
SMALL ARMS	25,400
CARTRIDGES	33,954
GENERAL PURPOSE BOMBS	7,887
JOINT DIRECT ATTACK MUNITIONS	13,094
ITEMS LESS THAN $5 MILLION	12,100
FLARES	112,545
FUZES	475
TOTAL, PROCUREMENT OF AMMUNITION, AIR FORCE	205,455
OTHER PROCUREMENT, AIR FORCE:	
PASSENGER CARRYING VEHICLES	23,396
MEDIUM TACTICAL VEHICLE	34,939
SECURITY AND TACTICAL VEHICLES (Note: Includes MRAP adjustment)	66,124
FIRE FIGHTING/CRASH RESCUE VEHICLES	15,200
HALVORSEN LOADER	19,500
RUNWAY SNOW REMOVAL AND CLEANING EQUIPMENT	6,987
ITEMS LESS THAN $5 MILLION (VEHICLES)	12,500
NATIONAL AIRSPACE SYSTEM	4,200
GENERAL INFORMATION TECHNOLOGY (Note: No funds for POM–X)	7,776
AIR FORCE PHYSICAL SECURITY SYSTEM (Note: Funding not included for C-RAM and CROWS)	4,500
GLOBAL COMBAT SUPPORT SYSTEM—AF FAMILY OF SYSTEMS	7,500
DEFENSE MESSAGE SYSTEM	400
BASE INFORMATION INFRASTRUCTURE (Note: only for ANG installations)	52,000

[In thousands of dollars]

Account	Committee recommendation
SPACELIFT RANGE SYSTEM SPACE	10,000
CONTINGENCY OPERATIONS	9,200
ITEMS LESS THAN $5 MILLION (BASE SUPPORT) (Note: Includes $12,000,000 for Intelligence Communications Equipment and no funding for Senior Leader in Transit Conference Capsules)	61,000
DISTRIBUTED GROUND SYSTEMS	56,000
CLASSIFIED PROGRAMS	1,561,945
TOTAL, OTHER PROCUREMENT, AIR FORCE	1,953,167
PROCUREMENT, DEFENSE-WIDE:	
MAJOR EQUIPMENT, DHRA	7,800
CV–22	173,800
C–130 MODS	65,000
SMALL ARMS AND WEAPONS	1,365
UNMANNED VEHICLES	14,550
SOF OPERATIONAL ENHANCEMENTS	59,000
CLASSIFIED PROGRAMS	86,694
TOTAL, PROCUREMENT, DEFENSE-WIDE	408,209
NATIONAL GUARD AND RESERVE EQUIPMENT:	
ARMY RESERVE	150,000
ARMY NATIONAL GUARD	675,000
TOTAL, NATIONAL GUARD & RESERVE EQUIPMENT	825,000

ARMY AVIATION

Urgent needs have been identified in certain Army aviation programs. Accordingly, the recommendation provides additional funding as follows: $30,000,000 for UH–60A to UH–60L modifications, to remanufacture 30 aircraft; $14,650,000 for UH–60 aircraft safety enhancements; $38,000,000 for Kiowa Warrior Safety Enhancement program; and $196,100,000 for Army fixed and rotary wing aircraft survivability enhancements in infrared countermeasures.

There is strong support for the Army plan to replace the aging Kiowa Warrior fleet with Armed Reconnaissance Helicopters [ARH] as soon as possible. However, the funding provided in the Department of Defense Appropriations Act, 2008 fully funded the ARH production capacity for fiscal year 2008. Accordingly, the recommendation includes no additional funding for the Armed Reconnaissance Helicopter program.

M4 CARBINE

Numerous concerns have been raised about continued procurement of the M4 carbine. These concerns range from performance issues (such as jamming in dusty environments) to the current sole source contract. The Army recently conducted tests on the M4 and similar weapons in the same class to assess its performance. The Army is also evaluating the capability of the M4 and other weapons to determine if a new performance requirement is needed. To allay the concerns regarding performance and competition in contracting, the Secretary of the Army is directed to provide a report to the congressional defense committees no later than June 15, 2008, on the findings of the recent comparative capability assessment and with a determination as to whether a change in the acquisition strategy is needed.

FAMILY OF MEDIUM TACTICAL VEHICLES

The recommendation includes $793,600,000 for the Family of Medium Tactical Vehicles program. This funding level includes $94,000,000 to reimburse the program for funds that were used under rapid acquisition authority to procure Sky Warrior intelligence, surveillance and reconnaissance assets.

SINGLE CHANNEL GROUND AND AIRBORNE RADIO SYSTEM [SINCGARS]

The recommendation includes $500,347,000 for the procurement of SINCGARS radios, which will fully fund Army SINCGARS radio requirements for fiscal year 2008. However, the Army has yet to fully address certain issues including concerns of the Army Science Board regarding SINCGARS compatibility with the Joint Tactical Radio System [JTRS], encryption modernization, and compatibility with local first responder radios. The Army is urged to move forward with a plan that addresses these and other urgent tactical radio issues.

The Army has recently updated the acquisition strategy for the SINCGARS family of radios and has released a market survey seeking sources of supply that are compliant with the operational requirements. The Army is encouraged to implement ''best value'' selection criteria in any upcoming competition where the operational requirements are stated as the minimum needed and advanced capabilities and features would be evaluated according to the value they bring above that minimum functionality level. Not more than 60 days after enactment of this act, the Secretary of the Army shall provide a report and briefing to the Committees on Appropriations of the House of Representatives and the Senate addressing the acquisition objective; encryption modernization and capability enhancement; alignment with the JTRS program; and a procurement plan that includes a strategy for full, fair and open competition.

MARITIME PATROL AIRCRAFT

The Navy has recently grounded 39 P–3 Orion Maritime Patrol Aircraft due to wing cracking discovered during inspections. These aircraft have logged significant hours flying in support of the Global War on Terror. To keep these aircraft flying until the replacement Multi-Mission Aircraft (P–8A Poseidon) is fielded, $313,900,000 is provided for the procurement and installation of wing repair kits.

MARINE CORPS AIRCRAFT DEFENSIVE WEAPONS

Marine Corps aircraft deployed in theater should have a capable self defense system. Some of the deployed Marine Corps aircraft have less than capable or outdated defensive systems. To improve the capability of deployed Marine Corps aircraft, $15,000,000 is provided for the procurement of defensive weapons for V–22 aircraft and $3,500,000 is provided for the procurement of defensive weapons for CH–46 aircraft.

GROW THE FORCE—MARINE CORPS

The recommendation provides funds identified by the Marine Corps associated with growing the size of its force, to include $26,400,000 for lightweight 155mm howitzers, $12,000,000 for weapons, $43,000,000 for trailers and $144,000,000 for armored vehicle sets.

MARINE CORPS GROUND-BASED OPERATIONAL SURVEILLANCE SYSTEM [G–BOSS]

The fiscal year 2008 supplemental request included $640,000,000 for G–BOSS, a capability that will provide updated base security for the Marine Corps. Public Law 110–161 provided $340,000,000 of that total program requirement. Briefings with the Marine Corps and the Joint Improvised Explosive Device Defeat Organization [JIEDDO] indicate that JIEDDO will fund the remaining G–BOSS requirement of $300,000,000.

C–17 GLOBEMASTER

In light of increases to both the Army and Marine Corps end-strength and the emerging lift needs of the Future Combat System, the Department of Defense has not adequately assessed strategic lift requirements. The need for an accurate assessment is critical because the C–17 aircraft production line is facing shut-down in the very near-term. As a prudent course of action to avoid plant shutdown before the requirement is fully assessed, the recommendation provides $3,604,500,000 to procure 15 C–17 aircraft.

C/KC/MC–130J PROCUREMENT

An appropriation of $2,469,700,000 is recommended for the procurement of 34 C/KC/MC–130J aircraft. Given the age and usage of the C–130, KC–130 and MC–130 fleets, it is justifiable to acquire replacement aircraft faster and in higher quantities in order to drive down unit acquisition costs and operating costs. Therefore, the recommendation fully funds 18 C–130J aircraft, seven MC–130J aircraft and nine KC–130J aircraft. These funds are provided with the expectation that the Department of Defense will proceed expeditiously with negotiations to enter into a follow-on joint multi-year procurement contract in order to lock in lower acquisition prices. It is anticipated that the savings achieved with a multi-year procurement contract will be applied to the associated economic order quantity requirement.

LARGE AIRCRAFT INFRARED COUNTERMEASURES [LAIRCM]

The fiscal year 2007 supplemental provided $112,400,000 to install LAIRCM on C–37 aircraft at an estimated cost of $11,200,000 per aircraft. Due to discounts offered by the vendor and installer for subsequent aircraft, each additional aircraft modification was approximately 50 percent of the original estimate, resulting in a savings of $55,000,000. The Secretary of the Air Force is directed to use the savings to fund the LAIRCM modification for C–20B and C–20H aircraft. These aircraft are not currently tasked for missions into areas where man-portable, shoulder-fired, infrared seeking anti-aircraft missile countermeasures are required. Passengers are transferred to combat aircraft such as the C–130 and C–17 that are equipped with countermeasure equipment. These modifications will allow the C–20B/H aircraft to be tasked for missions directly into areas

where countermeasures are required and, thus, negate the need for combat aircraft to be diverted for these missions.

HANDGUN REPLACEMENT

The recommendation includes no funding for the Air Force to replace its handgun. $5,000,000 was provided in fiscal year 2007 to perform a study on replacing the handgun that was not executed because there was no validated requirement for a new handgun. This remains an unsubstantiated need for fiscal year 2008 supplemental funds and the Air Force is urged to request funds in the baseline account if it intends to pursue this program in the future.

NATIONAL GUARD AND RESERVE EQUIPMENT

The recommendation for the National Guard and Reserve Equipment Account is $825,000,000. Of this amount, $675,000,000 is for the Army National Guard and $150,000,000 is for the U.S. Army Reserve to meet urgent equipment needs that may arise this fiscal year. This funding will allow the Army Guard and Army Reserve to procure high priority items such as: AH–64 helicopter modifications from A model to D model for the Army Guard; HH–60 Blackhawk medical evacuation helicopters for the Army Reserve; UH–60 helicopter model A to L conversions; HMMWV utility vehicles; Heavy Expanded Mobile Tactical Trucks; Liquid Logistics Storage and Distribution Systems; sniper detection devices; MILSATCOM, NAVSTAR GPS, and other communications equipment; Night Vision equipment; psychological operations equipment; Water Purification Systems; Air Traffic Control Simulator Systems; Light Medium and Medium Tactical Vehicles; trucks, tractors, and line haul equipment; Armored Security Vehicles; Joint Service Transportable Decontamination Systems -Small Scale [JSTDS–SS]; Logistics Automation Systems [SAMS–E, CAISI, and VSAT]; and tactical bridging and power generating equipment.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

An appropriation of $1,745,483,000 is recommended for Research, Development, Test and Evaluation.

The recommendations for each research, development, test and evaluation account are shown below:

[In thousands of dollars]

Account	Committee recommendation
RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY:	
MILITARY ENGINEERING ADVANCED TECHNOLOGY (Note: Includes development of surveillance technology)	5,000
SOLDIER SUPPORT AND SURVIVABILITY	10,000
INFANTRY SUPPORT WEAPONS	8,158
FAMILY OF HEAVY TACTICAL WHEELS (Note: Adapt SPARK Mine Rollers to OEF)	3,400
LIGHT TACTICAL WHEELED VEHICLES	10,000
AIR DEFENSE COMMAND, CONTROL AND INTELLIGENCE	38,900
AUTOMATIC TEST EQUIPMENT DEVELOPMENT	2,000
INFORMATION TECHNOLOGY DEVELOPMENT (Note: Includes $16,000,000 for Enhanced DIHMRS Capability)	21,000
INFORMATION SYSTEMS SECURITY PROGRAM	23,300
WWMCCS/GLOBAL COMMAND AND CONTROL SYSTEM	3,800
JOINT COMMAND AND CONTROL PROGRAM	6,200
DISTRIBUTED COMMON GROUND/SURFACE SYSTEMS	6,000
BASE EXPEDITIONARY TARGETING SURVEILLANCE SYSTEMS—COMBINED (BETSS–C)	10,000
FUEL PRICE INCREASE—KWAJALEIN	6,000
LIGHT WEIGHT MISSILE LAUNCHER	9,200
TOTAL, RESEARCH, DEVELOPMENT, TEST & EVALUATION, ARMY	162,958
RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY:	
USMC ADVANCED TECHNOLOGY DEMONSTRATION (ATD) (Note: Includes funding for IED Detection Program)	17,000
RETRACT LARCH	18,800
RETRACT MAPLE	3,400
LINK EVERGREEN	47,200
NON-LETHAL WEAPONS (Note: Funds only for ADS and Silent Guardian)	7,000
OTHER HELICOPTER DEVELOPMENT (Note: Includes funding for CH–53 VDE)	5,000
AV–8B AIRCRAFT—ENGINE DEVELOPMENT	6,406
V–22A (Note: Funding for Defensive Weapons System)	14,000
ELECTRONIC WARFARE (EW) DEVELOPMENT	8,676
MEDICAL DEVELOPMENT (Note: Includes funding for wound care research)	10,000
INFORMATION TECHNOLOGY DEVELOPMENT	800
SHIP AND AIRCRAFT SUPPORT	8,952
MARINE CORPS COMMS SYSTEMS (Note: Funds only for GBOSS, CREW, CESAS, and TPS–59)	55,500
MARINE CORPS GROUND COMBAT/SUPPORTING ARMS SYSTEMS (Note: No funds for PERM)	10,600
MARINE CORPS CMBT SERVICES SUPT (Note: Funds only for M1A1 Crew Weapon and Test Equipment)	1,075
AIRBORNE RECONNAISSANCE SYSTEMS	11,000
MANNED RECONNAISSANCE SYSTEMS	32,000
CLASSIFIED PROGRAMS	108,701
TOTAL, RESEARCH, DEVELOPMENT, TEST & EVALUATION, NAVY	366,110
RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE:	
MATERIALS	3,700
ADVANCED MATERIALS FOR WEAPON SYSTEMS	5,900
AEROSPACE TECHNOLOGY DEV/DEMO	300
B–1B	40,000
SMALL DIAMETER BOMB	7,900
ARMAMENT/ORDNANCE DEVELOPMENT	4,200
TEST AND EVALUATION SUPPORT (Note: Includes $300,000 for deployed civilians and $18,818,000 for fuel cost increase)	19,118
FACILITY RESTORATION AND MODERNIZATION-T&E	1,610
CLASSIFIED PROGRAMS	7,700
NIGHT FIST USSTRATCOM	1,640
F–16 SQUADRONS (Note: Only for BLOS for SINCGARS)	7,700
COMPASS CALL	5,600
AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROG (CIP)	16,000
JOINT SURVEILLANCE/TARGET ATTACK RADAR SYS (JSTARS)	185,499
DRAGON U–2 (JMIP)	660
AIRBORNE RECONNAISSANCE SYSTEMS	1,520
GLOBAL HAWK UAV (Note: Only for fixing imagery and shading issues)	800
CLASSIFIED PROGRAMS	89,970
TOTAL, RESEARCH, DEVELOPMENT, TEST & EVALUATION, AIR FORCE	399,817
RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE:	
AEGIS BALLISTIC MISSILE DEFENSE (Note: Only for activities associated with the February 2008 satellite intercept)	112,360
GENERAL SUPPORT TO USD	26,374
CLASSIFIED PROGRAMS USD (P)	15,000
DHRA—WOUNDED WARRIOR	20,300
CRITICAL INFRASTRUCTURE PROGRAM (CIP)	4,500
DISTRIBUTED COMMON GROUND/SURFACE SYSTEMS	3,170
SOF OPERATIONAL ENHANCEMENTS	2,270
MANAGEMENT HEADQUARTERS (JCS)	1,028
UNMANNED VEHICLES (Note: Only for Global Observer)	38,000
CLASSIFIED PROGRAMS	593,596
TOTAL, RESEARCH, DEVELOPMENT, TEST & EVALUATION, DEFENSE-WIDE	816,598

JOINT STARS

An appropriation of $185,499,000 is recommended for the JOINT STARS aircraft program. $58,600,000 is for the Primary Mission Equipment and Diminishing Manufacturing Source [PME/DMS] development program, $1,409,000 is for the Surface Warfare Joint Capability Technology Demonstration, $36,000,000 is for increased bandwidth and beyond line of site capability for the aircraft, $4,100,000 is for Single Channel Ground to Air

Radio System [SINCGARS] voice initial capability insertion, and $85,390,000 is for the Radar Technology Insertion Program for Joint STARS.

C–17 HEADS-UP DISPLAY

Beginning in fiscal year 2012 the current C–17 Heads-Up Display [HUD] will no longer be supportable due to problems associated with parts obsolescence. Given this timeline, the Air Force may use C–17 research, development, test and evaluation funds already appropriated in fiscal year 2008 to start a replacement program for the HUD.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

An appropriation of $1,837,450,000 is recommended for the Defense Working Capital Funds.

The recommendations for each Defense Working Capital Fund account are shown below:

[In thousands of dollars]

Account	Committee recommendation
DEFENSE WORKING CAPITAL FUND, ARMY:	
PREPOSITIONED WAR RESERVE STOCKS	511,100
SPARES AUGMENTATION—COMBAT LOSSES	62,000
SPARES AUGMENTATION—OIF DEMANDS	70,000
FUEL COSTS	7,471
TOTAL, DEFENSE WORKING CAPITAL FUND, ARMY	650,571
DEFENSE WORKING CAPITAL FUND, NAVY: FUEL COSTS	272,020
TOTAL, DEFENSE WORKING CAPITAL FUND, NAVY	272,020
DEFENSE WORKING CAPITAL FUND, AIR FORCE: FUEL COSTS	594,784
TOTAL, DEFENSE WORKING CAPITAL FUND, AIR FORCE	594,784
DEFENSE WORKING CAPITAL FUND, DEFENSE-WIDE:	
THEATER DISTRIBUTION CENTER, KUWAIT	13,000
COMBAT FUEL LOSSES	43,400
FUEL TRANSPORTATION	96,100
DEFENSE REUTILIZATION AND MARKETING OPTIONS	5,275
DLA FUEL TERMINAL OPERATIONS	16,100
FUEL COSTS	146,200
TOTAL, DEFENSE WORKING CAPITAL FUND, DEFENSE-WIDE	320,075

NATIONAL DEFENSE SEALIFT FUND

An appropriation of $5,110,000 is recommended for the National Defense Sealift Fund.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

An appropriation of $1,488,864,000 is recommended for the Defense Health Program.

The recommendations for operation and maintenance, procurement and research, development, test and evaluation are shown below:

[In thousands of dollars]

Account	Committee recommendation
OPERATION AND MAINTENANCE	957,064
IN-HOUSE CARE	38,700
Navy Personnel Backfill	37,700
Medical Care of Former Members w/Severe Injuries	1,000
PRIVATE SECTOR CARE	541,164
Respite Care for Active Duty Members	10,000
Medical Care for Families of Seriously Injured Members	1,000
CONSOLIDATED HEALTH CARE SUPPORT	43,311
Notification of Combat Wounded	2,000
Center of Excellence for Eye Injuries	1,000
Establish Office for Interoperable Electronic Health Record	2,500
Disability Evaluation System & Case Management	7,600
INFORMATION MANAGEMENT	19,393
Joint Medical Communications Infrastructure	5,000
Navy Civilian Hires	300
Disability Evaluation System & Case Management	13,500
MANAGEMENT ACTIVITIES	773
EDUCATION AND TRAINING	20,700
Enhanced Recruiting/Retention of HC Professionals	18,500
Navy Civilian Hires	2,200
BASE OPERATIONS/COMMUNICATIONS	293,023
Army FSRM	140,200
Navy FSRM	93,211
Air Force FSRM	59,612
PROCUREMENT	91,900
Disability Evaluation System & Case Management	4,900
Joint Medical Communications Infrastructure	25,000
Army Medical Procurement	35,000
Navy Medical Procurement	27,000
RESEARCH, DEVELOPMENT, TEST AND EVALUATION	364,900
Disability Evaluation System & Case Management	21,100
Battle Casualty and Psychological Health Research	273,800
Center for Neuroscience and Regenerative Medicine	70,000
PSYCHOLOGICAL HEALTH AND TRAUMATIC BRAIN INJURY	75,000
TOTAL, DEFENSE HEALTH PROGRAM	1,488,864

FACILITIES SUSTAINMENT, RESTORATION AND MODERNIZATION

The recommendation includes an additional $293,023,000 for sustainment, restoration and modernization of military medical projects for the Army, Navy and Air Force. The average ''recapitalization rate'' (aggregate investment in infrastructure) for civilian hospitals is 21 years and the current Department of Defense medical facility recapitalization rate exceeds 75 years. This funding is only a temporary band-aid for certain facilities and the Department is urged to request the necessary military construction funds.

JOINT MEDICAL COMMUNICATIONS INFRASTRUCTURE

The recommendation includes $5,000,000 in the Information Management budget activity group within operation and maintenance and $25,000,000 in procurement for the advancement of real time interoperability of medical images and data. This project enables real-time interoperability for the Theater Medical Information Program [TMIP] and other Department of Defense, Department of Veterans Affairs, and civilian medical systems to provide life saving capabilities to our service men and women. TMIP applications are currently deployed all the way down to our field medics to record patient encounter data, usually at the point of injury. Department of Defense medical application data is not currently in a common data format; Veterans Affairs data is entered as text, preventing the data from being computable. Integration and processing of data is not done in real-time; utilizing data in this manner can require days, even weeks. This project enables real time interoperability for life saving data to Emergency Operations Centers for the Army, Air Force and Navy Combatant Commands, eliminating life threatening situations where medical assets are potentially not available to those that need them. Without those medical assets being available, the lives, health and safety of our forces are at stake.

UNFUNDED FISCAL YEAR 2008 PROCUREMENT REQUIREMENTS

The recommendation includes an additional $62,000,000 for unfunded procurement requirements for the Army and Navy. The Air Force does not have any unfunded procurement requirements for fiscal year 2008. Providing the most advanced medical equipment is essential for the care of our service members and their families and the Services have a limited ability to procure critical medical technology because of the exponential cost growth for medical equipment and the restrictions on the service medical accounts. Additional procurement resources have been provided to the Services for the past 2 years and the Department must make a concerted effort to reflect these requirements in future budget submissions for the Defense Health Program.

BATTLE CASUALTY AND PSYCHOLOGICAL HEALTH RESEARCH

The recommendation includes an additional $273,800,000 to address prevention, diagnosis, treatment, and mitigation of deployment-related injuries and psychological health concerns. These funds are targeted to accelerate ongoing programs and are for peer reviewed research into emergent approaches and technologies. These funds are directed toward the following research areas: final development of medical devices for use in theater (including portable suction machines and EKGs for theater hospitals); blood safety and blood products; burns (including tissue viability and fluid resuscitation); orthopedic and other trauma treatment and rehabilitation (including face, visual/ocular and nerve damage, dental, and auditory systems); suicide prevention and counseling (including reducing nurse stress and fatigue at military treatment facilities); traumatic brain injury and psychological health (including Post Traumatic Stress Disorder); injury prevention; wound infection and healing; treatment for severe cutaneous leishmaniasis; and wound infection vaccines. These funds shall be executed through the Army's Medical Research and Materiel Command. The Army is directed to work in conjunction with the Navy and the Air Force to augment all Department of Defense research efforts in these areas. The Department is directed to provide a report with a detailed plan for the use of these funds and timeline for execution by August 1, 2008.

CENTER FOR NEUROSCIENCE AND REGENERATIVE MEDICINE

The recommendation includes an additional $70,000,000 to increase investigators and research capabilities in Traumatic Brain Injury and regenerative medicine across the Armed Forces. The focus of this initiative is an intramural start-up for the study of blast injury to the brain and post traumatic stress by studying actual combat casualties cared for at Walter Reed Army Medical Center and the National Naval Medical Center and using sophisticated neuroimaging technology at the National Institute of Health's Clinical Center.

POST TRAUMATIC STRESS DISORDER AND TRAUMATIC BRAIN INJURY

In addition to amounts otherwise available to the Defense Health Program, $75,000,000 is available to continue work for traumatic brain injury and psychological health.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

An appropriation of $65,317,000 is recommended for Drug Interdiction and Counter-Drug Activities, Defense for operations in Afghanistan, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Thailand and Turkmenistan.

OFFICE OF THE INSPECTOR GENERAL

An appropriation of $6,394,000 is recommended for the Office of the Inspector General. This is an increase of $2,000,000 in research, development, test and evaluation funding for the development of an Investigative Data System for the Defense Criminal Investigative Service.

GENERAL PROVISIONS—THIS CHAPTER

The recommended bill includes the following general provisions for this chapter:

Section 11101 establishes the period of availability for obligation for appropriations provided in this chapter.

Section 11102 provides that funds made available in this chapter are in addition to amounts provided elsewhere for the Department of Defense for fiscal year 2008.

Section 11103 provides for special transfer authority of up to $2,500,000,000 of funds in

this chapter, subject to the terms and conditions in section 8005 of the Department of Defense Appropriations Act, 2008.

Section 11104 provides that of the funds made available for the Department of Defense, $1,226,841,000 may be used to execute programs under the Commander's Emergency Response Program for Iraq, Afghanistan, and the Philippines.

Section 11105 provides for transfer of funds to the Defense Cooperation Account to appropriations or funds as determined by the Secretary of Defense.

Section 11106 provides that not to exceed $20,000,000 of funds made available under ''Drug Interdiction and Counter-Drug Activities, Defense'' may be used to support counter-drug activities of certain governments, and that such support is in addition to support provided under any other provision of law.

Section 11107 provides for up to 20 heavy and light armored vehicles for force protection purposes in Iraq and Afghanistan and up to 21 vehicles from funds previously appropriated.

Section 11108 provides for the transfer of funds to the Mine Resistant Ambush Protected Vehicle Fund.

Section 11109 provides up to $150,000,000 to support the development of foreign national counterterrorism capabilities.

CHAPTER 2

BRIDGE FUND APPROPRIATIONS FOR FISCAL YEAR 2009

DEPARTMENT OF DEFENSE—MILITARY

OVERVIEW

RECOMMENDATION

On May 2, the administration presented a request of $65,960,936,000 for supplemental appropriations for the Department of Defense, not including military construction. The recommendation in title XI, chapter 2, is $65,921,157,000.

The following table summarizes by appropriation account or general provision, the recommendation:

[In thousands of dollars]

	Committee recommendation
Chapter 2	
DEPARTMENT OF DEFENSE—MILITARY	
Military Personnel	
Military Personnel, Army (emergency)	839,000
Military Personnel, Navy (emergency)	75,000
Military Personnel, Marine Corps (emergency)	55,000
Military Personnel, Air Force (emergency)	75,000
National Guard Personnel, Army (emergency)	150,000
Total, Military Personnel	1,194,000
Operation and Maintenance	
Operation & Maintenance, Army (emergency)	37,300,000
Operation & Maintenance, Navy (emergency)	3,500,000
(Transfer out) (emergency)	(−112,000)
Operation & Maintenance, Marine Corps (emergency)	2,900,000
Operation & Maintenance, Air Force (emergency)	5,000,000
Operation & Maintenance, Defense-Wide (emergency)	2,648,569
Operation & Maintenance, Army Reserve (emergency)	79,291
Operation & Maintenance, Navy Reserve (emergency)	42,490
Operation & Maintenance, Marine Corps Reserve (emergency)	47,076
Operation & Maintenance, Air Force Reserve (emergency)	12,376
Operation & Maintenance, Army National Guard (emergency)	333,540
Operation & Maintenance, Air National Guard (emergency)	52,667
Subtotal, Operation and Maintenance	51,916,009
Afghanistan Security Forces Fund (emergency)	2,000,000
Iraq Security Forces Fund (emergency)	1,000,000
Total, Operation and Maintenance	54,916,009
Procurement	
Aircraft Procurement, Army (emergency)	84,000
Procurement of Weapons and Tracked Combat Vehicles, Army (emergency)	822,674
Procurement of Ammunition, Army (emergency)	46,500
Other Procurement, Army (emergency)	1,009,050
Other Procurement, Navy (emergency)	27,948
Procurement, Marine Corps (emergency)	565,425
Aircraft Procurement, Air Force (emergency)	201,842
Other Procurement, Air Force (emergency)	1,500,644
Procurement, Defense-Wide (emergency)	177,237
Total, Procurement	4,435,320
Research, Development, Test and Evaluation	
Research, Development, Test & Evaluation, Navy (emergency)	113,228
Research, Development, Test & Evaluation, Air Force (emergency)	72,041
Research, Development, Test and Evaluation, Defense-Wide (emergency)	202,559
Total, Research, Development, Test and Evaluation	387,828
Other Department of Defense Programs	
Defense Health Program (emergency)	1,100,000
Drug Interdiction and Counter–Drug Activities, Defense (emergency)	188,000
Joint Improvised Explosive Device Defeat fund (emergency)	2,000,000
Total, Other Department of Defenses Programs	3,288,000
General Provisions	
Sec. xxxx Transfer authority	(4,000,000)
Sec. xxxx Mine Resistant Ambush Protected Vehicle fund (emergency)	1,700,000
Total, General Provisions	1,700,000
Total, Chapter 2	65,921,157

CLASSIFIED ANNEX

The recommendations for intelligence activities are published in a separate and detailed classified annex. The intelligence community, Department of Defense and other organizations are expected to fully comply with the recommendations and direction in the classified annex accompanying this act.

REPORTING REQUIREMENTS

The Secretary of Defense is directed to provide a report to the congressional defense committees within 30 days of enactment of this act on the allocation of the funds within the accounts listed in this chapter. The Secretary shall submit updated reports 30 days after the end of each fiscal quarter until funds listed in this chapter are no longer available for obligation. The Secretary is directed that these reports shall include: a detailed accounting of obligations and expenditures of appropriations provided in this chapter by program and subactivity group for the continuation of military operations in Iraq and Afghanistan and a listing of equipment procured using funds provided in this chapter. It is expected that, in order to meet unanticipated requirements, the Department of Defense may need to transfer funds within these appropriation accounts for purposes other than those specified in this report. The Department of Defense is directed to follow normal prior approval reprogramming procedures should it be necessary to transfer funding between different appropriations accounts in this chapter.

Additionally, the Department of Defense is directed to submit monthly supplemental execution reports to the congressional defense committees that include the following information by appropriation: funding appropriated, funding allocated, monthly obligations, monthly disbursements, cumulative fiscal year obligations, and cumulative fiscal year disbursements.

MINE RESISTANT AMBUSH PROTECTED VEHICLES

The recommendation includes $1,700,000,000 for the Mine Resistant Ambush Protected Vehicle Fund. This funds requirements for ballistic testing, sustainment and transportation of Mine Resistant Ambush Protected Vehicles, as identified by the Department. The Department shall continue to adhere to the execution and reporting requirements contained in section 8122 of Public Law 110–116. Additionally, the Secretary of Defense is directed to include future requests for Mine Resistant Ambush Protected Vehicle sustainment in the base budget starting with the fiscal year 2010 President's budget request submission.

MILITARY PERSONNEL

An appropriation of $1,194,000,000 is recommended for Military Personnel.

The recommendations for each military personnel account are shown below:

[In thousands of dollars]

Account	Committee recommendation
MILITARY PERSONNEL, ARMY	
ACTIVITY 1: PAY AND ALLOWANCES OF OFFICERS:	
BASIC PAY	85,298
RETIRED PAY ACCRUAL	24,906
BASIC ALLOWANCE FOR HOUSING	25,374
BASIC ALLOWANCE FOR SUBSISTENCE	3,322
SOCIAL SECURITY TAX	6,516
TOTAL, BUDGET ACTIVITY 1	145,416
ACTIVITY 2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL:	
BASIC PAY	190,920
RETIRED PAY ACCRUAL	55,748
BASIC ALLOWANCE FOR HOUSING	58,173
SOCIAL SECURITY TAX	14,605
TOTAL, BUDGET ACTIVITY 2	319,446
ACTIVITY 4: SUBSISTENCE OF ENLISTED PERSONNEL:	
BASIC ALLOWANCE FOR SUBSISTENCE	17,563
SUBSISTENCE-IN-KIND	251,700
TOTAL, BUDGET ACTIVITY 3	269,263
ACTIVITY 6: OTHER MILITARY PERSONNEL COST:	
DEATH GRATUITIES	10,488

[In thousands of dollars]

Account	Committee recommendation
SGLI AND TSGLI PAYMENTS	94,387
TOTAL, BUDGET ACTIVITY 6	104,875
TOTAL, MILITARY PERSONNEL, ARMY	839,000
MILITARY PERSONNEL, NAVY	
ACTIVITY 6: OTHER MILITARY PERSONNEL COST:	
DEATH GRATUITIES	13,000
SGLI AND TSGLI PAYMENTS	62,000
TOTAL, BUDGET ACTIVITY 6	75,000
TOTAL, MILITARY PERSONNEL, NAVY	75,000
MILITARY PERSONNEL, MARINE CORPS	
ACTIVITY 6: OTHER MILITARY PERSONNEL COST:	
DEATH GRATUITIES	22,000
SGLI AND TSGLI PAYMENTS	33,000
TOTAL, BUDGET ACTIVITY 6	55,000
TOTAL, MILITARY PERSONNEL, MARINE CORPS	55,000
MILITARY PERSONNEL, AIR FORCE	
ACTIVITY 6: OTHER MILITARY PERSONNEL COST:	
DEATH GRATUITIES	12,000
SGLI AND TSGLI PAYMENTS	63,000
TOTAL, BUDGET ACTIVITY 6	75,000
TOTAL, MILITARY PERSONNEL, AIR FORCE	75,000
NATIONAL GUARD PERSONNEL, ARMY	
PAY GROUP A TRAINING (15 DAYS & DRILLS 24/28)	16,500
SCHOOL TRAINING	58,500
SPECIAL TRAINING	24,000
ADMINISTRATION AND SUPPORT	51,000
TOTAL, NATIONAL GUARD PERSONNEL, ARMY	150,000

OPERATION AND MAINTENANCE

An appropriation of $54,916,009,000 is recommended for Operation and Maintenance.

The recommendations for each operation and maintenance account are shown below:

[In thousands of dollars]

Account	Committee recommendation
OPERATION AND MAINTENANCE, ARMY:	
INCREMENTAL WARTIME OPERATING COSTS	23,343,665
DEPOT MAINTENANCE/RESET	7,886,730
FACILITIES/BASE SUPPORT	5,205,036
TRANSPORTATION	778,198
CLASSIFIED PROGRAMS	86,371
TOTAL, OPERATION AND MAINTENANCE, ARMY	37,300,000
OPERATION AND MAINTENANCE, NAVY:	
INCREMENTAL WARTIME OPERATING COSTS	2,517,826
DEPOT MAINTENANCE/RESET	236,829
TRANSPORTATION	594,906
COAST GUARD SUPPORT	112,000
CLASSIFIED PROGRAMS	38,439
TOTAL, OPERATION AND MAINTENANCE, NAVY	3,500,000
OPERATION AND MAINTENANCE, MARINE CORPS:	
INCREMENTAL WARTIME OPERATING COSTS	2,109,788
DEPOT MAINTENANCE/RESET	430,660
TRANSPORTATION	359,552
TOTAL, OPERATION AND MAINTENANCE, MARINE CORPS	2,900,000
OPERATION AND MAINTENANCE, AIR FORCE:	
INCREMENTAL WARTIME OPERATING COSTS	2,689,203
DEPOT MAINTENANCE/RESET	238,347
AIRLIFT OPERATIONS	2,031,723
CLASSIFIED PROGRAMS	40,727
TOTAL, OPERATION AND MAINTENANCE, AIR FORCE	5,000,000
OPERATION AND MAINTENANCE, DEFENSE-WIDE:	
THE JOINT STAFF	22,500
SPECIAL OPERATIONS COMMAND:	
OPERATING EXPENSES	901,550
ISR SUSTAINMENT	123,450
AMERICAN FORCES INFORMATION SERVICE	6,500
DEFENSE CONTRACT AUDIT AGENCY (DCAA)	5,000
DEFENSE CONTRACT MANAGEMENT AGENCY (DCMA)	2,100
DEFENSE HUMAN RESOURCE ACTIVITY (DHRA)	2,900
DEFENSE INFORMATION SYSTEMS AGENCY (DISA)	31,100
DEFENSE LOGISTICS AGENCY	34,000
DEFENSE LEGAL SERVICES AGENCY (DLSA)	7,000
DEPARTMENT OF DEFENSE EDUCATION ACTIVITY (DODEA)	102,460
DEFENSE SECURITY COOPERATION AGENCY (DSCA)	300,000
DEFENSE THREAT REDUCTION AGENCY (DTRA)	1,440
OFFICE OF THE SECRETARY OF DEFENSE	30,000
WASHINGTON HEADQUARTERS SERVICES	5,000
CLASSIFIED PROGRAMS	1,073,569
TOTAL, OPERATION AND MAINTENANCE, DEFENSE-WIDE	2,648,569

[In thousands of dollars]

Account	Committee recommendation
OPERATION AND MAINTENANCE, ARMY RESERVE: OPERATING EXPENSES	79,291
TOTAL, OPERATION AND MAINTENANCE, ARMY RESERVE	79,291
OPERATION AND MAINTENANCE, NAVY RESERVE: OPERATING EXPENSES	42,490
TOTAL, OPERATION AND MAINTENANCE, NAVY RESERVE	42,490
OPERATION AND MAINTENANCE, MARINE CORPS RESERVE: OPERATING EXPENSES	47,076
TOTAL, OPERATION AND MAINTENANCE, MARINE CORPS RESERVE	47,076
OPERATION AND MAINTENANCE, AIR FORCE RESERVE: OPERATING EXPENSES	12,376
TOTAL, OPERATION AND MAINTENANCE, AIR FORCE RESERVE	12,376
OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD: OPERATING EXPENSES	333,540
TOTAL, OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD	333,540
OPERATION AND MAINTENANCE, AIR NATIONAL GUARD: OPERATING EXPENSES	52,667
TOTAL, OPERATION AND MAINTENANCE, AIR NATIONAL GUARD	52,667
AFGHANISTAN SECURITY FORCES FUND:	
MINISTRY OF DEFENSE (MOD) INFRASTRUCTURE	300,510
MOD EQUIPMENT AND TRANSPORTATION	234,558
MOD TRAINING	138,271
MOD SUSTAINMENT	480,340
MINSTRY OF INTERIOR (MOI) INFRASTRUCTURE	210,276
MOI EQUIPMENT AND TRANSPORTATION	42,727
MOI TRAINING	313,803
MOI SUSTAINMENT	275,515
RELATED ACTIVITIES:	
DETAINEE OPERATIONS—TRAINING	1,000
DETAINEE OPERATIONS—SUSTAINMENT	3,000
TOTAL, AFGHANISTAN SECURITY FORCES FUND	2,000,000
IRAQ SECURITY FORCES FUND:	
MINISTRY OF DEFENSE (MOD) EQUIPMENT AND TRANSPORTATION	300,000
MOD TRAINING	60,000
MOD SUSTAINMENT	100,000
MINISTRY OF INTERIOR (MOI) EQUIPMENT AND TRANSPORTATION	200,000
MOI TRAINING	300,000
MOI SUSTAINMENT	40,000
TOTAL, IRAQ SECURITY FORCES FUND	1,000,000

DEFENSE SECURITY COOPERATION AGENCY

The recommendation includes $200,000,000 for coalition support funds and $100,000,000 for lift and sustainment of coalition partners in Iraq and Afghanistan.

AFGHANISTAN AND IRAQ SECURITY FORCES

Reprogramming.—The Department of Defense has been provided significant flexibility in executing this program in the past but new reprogramming procedures are required at this juncture. With respect to the Iraq Security Forces Fund and the Afghanistan Security Forces Fund, the Department is directed to submit prior approval reprogramming requests to the congressional defense committees for proposed transfers of funds in excess of $20,000,000, to the Infrastructure subactivity groups or other construction related projects.

PROCUREMENT

An appropriation of $4,435,320,000 is recommended for Procurement.

The recommendations for each procurement account are shown below:

[In thousands of dollars]

Account	Committee recommendation
AIRCRAFT PROCUREMENT, ARMY:	
COMMON GROUND EQUIPMENT	5,000
AIRCRAFT SURVIVABILITY INFRARED COUNTERMEASURES	20,000
KIOWA WARRIOR	59,000
TOTAL, AIRCRAFT PROCUREMENT, ARMY	84,000
PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY:	
BRADLEY BASE SUSTAINMENT	394,800
M1 ABRAMS TANK MOD	47,900
ABRAMS UPGRADE PROGRAM	130,400
STRYKER VEHICLE	248,053
MORTAR WEAPON SYSTEM	1,521
TOTAL, PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY	822,674
PROCUREMENT OF AMMUNITION, ARMY: NON-LETHAL AMMUNITION, ALL TYPES	46,500
TOTAL, PROCUREMENT OF AMMUNITION, ARMY	46,500
OTHER PROCUREMENT, ARMY:	
HMMWV RECAP PROGRAM	390,219
HEMTT EXTENDED SERVICE PROGRAM	15,000
SEMI TRAILER, FLATBED	58,014
SEMI TRAILER, TANKER	26,941
TACTICAL BRIDGING, FLOAT-RIBBON	14,000
DRY SUPPORT BRIDGE	76,000
FAMILY OF HEAVY TACTICAL VEHICLES (FHTV)	90,000
TACTICAL TRAILER/DOLLY SETS	40,000
TACTICAL RADIOS	4,855
GROUND STANDOFF MINE DETECTION SYSTEM	5,000
MEDICAL COMMUNICATIONS FOR COMBAT CASUALTY CARE	12,109
NIGHT VISION DEVICES	20,000
NIGHT VISION THERMAL WEAPONS SIGHT	20,000
ALL TERRAIN LIFTING ARMY SYSTEM	5,000
LOADERS	15,000
TRACTORS	20,000
GENERATORS AND ASSOCIATED EQUIPMENT	20,000
DIGITAL TOPOGRAPHIC SUPPORT SYSTEM	9,000
TRUCK, TRACTOR, LINE HAUL, M915/M921	110,000
PROPHET GROUND	2,500

[In thousands of dollars]

Account	Committee recommendation
TACTICAL UNMANNED AERIAL SYSTEMS	9,876
MODIFICATION OF IN-SERVICE EQUIPMENT	15,000
ROUGH TERRAIN CONTAINER HANDLER (RTCH)	30,000
CLASSIFIED PROGRAMS	536
TOTAL, OTHER PROCUREMENT, ARMY	1,009,050
OTHER PROCUREMENT, NAVY:	
CONSTRUCTION AND MAINTENANCE EQUIPMENT	3,142
TACTICAL VEHICLES	5,554
ITEMS UNDER $5 MILLION	5,687
PHYSICAL SECURITY EQUIPMENT	13,565
TOTAL, OTHER PROCUREMENT, NAVY	27,948
PROCUREMENT, MARINE CORPS:	
LIGHT ARMORED VEHICLE (LAV)-PRODUCT IMPROVEMENT PROGRAM (PIP)	30,000
WEAPONS & COMBAT SYSTEMS UNDER $5M	8,000
MODULAR WEAPONS SYSTEM (Note: Includes FK4 Underbody Armor, M1114 Frag Kits, M1A1 IED Survivability Enhancements)	101,500
UNIT OPERATIONS CENTER	16,000
REPAIR AND TEST EQUIPMENT (Note: Includes Blue Force Tracking Support, Platform Devices, Spares and Vehicles)	105,175
RADAR SYSTEMS	8,000
INTELLIGENCE SUPPORT EQUIPMENT	21,500
COMMON COMPUTER RESOURCES	5,000
5/4T TRUCK HMMWV (RESET)	25,000
EOD SYSTEMS (Note: Including CREW Upgrades)	211,750
PHYSICAL SECURITY EQUIPMENT (Note: Includes Electronic Security Systems and G–BOSS)	9,000
FIELD MEDICAL EQUIPMENT	8,000
COUNTER RC IED WARFARE	1,500
FAMILY OF CONSTRUCTION EQUIPMENT	15,000
TOTAL, PROCUREMENT, MARINE CORPS	565,425
AIRCRAFT PROCUREMENT, AIR FORCE:	
LAIRCM (Note: Includes funds for EC130/C–17 LAIRCM)	26,000
F–16 MODIFICATIONS (Note: Only for the National Guard $34,200,000 for F–16 Advanced Identification Friend/Foe (AIFF))	34,200
F–15 MODIFICATIONS (Note: $34,000,000 only for National Guard AESA Systems)	34,000
MQ–9 REAPER (Note: Includes 5 UAVs)	87,642
PREDATOR/REAPER GCS RETROFIT	20,000
TOTAL, AIRCRAFT PROCUREMENT, AIR FORCE	201,842
OTHER PROCUREMENT, AIR FORCE:	
HALVORSEN	13,500
CLASSIFIED PROGRAMS	1,487,144
TOTAL, OTHER PROCUREMENT, AIR FORCE	1,500,644
PROCUREMENT, DEFENSE-WIDE:	
C–130 MODIFICATIONS (Note: Funds are provided for the Special Operations Command Gunship Multispectral Sensor 2 Readiness Spares)	17,000
SOF ORDNANCE REPLENISHMENT	43,640
SOF OPERATIONAL ENHANCEMENT (Note: $20,750,000 is for Special Operations Command ISR Mission Equipment Package and $13,000,000 for Sensors for Additional Leased ISR Aircraft)	33,750
SMALL ARMS AND WEAPONS (Note: For SOF Soldier Protection and Survival System)	16,250
CLASSIFIED PROGRAMS	66,597
TOTAL, PROCUREMENT, DEFENSE-WIDE	177,237

FORCE PROTECTION AND RESET

The recommendation provides funding for critical force protection and reset initiatives identified by the Marine Corps, to include $30,000,000 for Light Armored Vehicle survivability upgrades; $97,500,000 for Frag Kit 4 underbody armor and M1114 Frag Kits; $105,175,000 for Blue Force Tracker platform devices; and $201,750,000 for jammer upgrades.

SPECIAL OPERATIONS PSYCHOLOGICAL OPERATIONS

Special Operations Command is encouraged to use funds provided in fiscal year 2009 for the Department of Defense to fund psychological operations equipment for C–130J aircraft.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

An appropriation of $387,828,000 is recommended for Research, Development, Test and Evaluation only for classified programs.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

An appropriation of $1,100,000,000 is recommended for the Defense Health Program.

The recommendations for the Defense Health Program are shown below:

[In thousands of dollars]

Account	Committee recommendation
OPERATION AND MAINTENANCE	1,100,000
IN-HOUSE CARE	740,052
CONSOLIDATED HEALTH CARE SUPPORT	220,147
INFORMATION MANAGEMENT	78,219
MANAGEMENT ACTIVITIES	1,159
EDUCATION AND TRAINING	51,157
BASE OPERATIONS/COMMUNICATIONS	9,266
TOTAL, DEFENSE HEALTH PROGRAM	1,100,000

TRAUMATIC BRAIN INJURY AND PSYCHOLOGICAL HEALTH

The recommendation includes $300,000,000 to support programs and activities relating to the treatment, care, rehabilitation, recovery and support of the Armed Forces for traumatic brain injury and psychological health issues. Of the funds provided, $200,000,000 is in In-House Care, $75,000,000 is in Consolidated Health, and $25,000,000 is in Education and Training. The Assistant Secretary of Defense for Health Affairs, in coordination with the Service Surgeons General and the Deputy Assistant Secretary of Defense for Force Health Protection and Readiness, is directed to provide a report to the congressional defense committees no later than August 1, 2008 with a detailed spend plan including funding requirements, sources of funding, and a break out of initiatives.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

An appropriation of $188,000,000 is recommended for Drug Interdiction and Counter-Drug Activities, Defense for operations in Afghanistan, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, and Turkmenistan.

JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND

An appropriation of $2,000,000,000 is recommended for the Joint Improvised Explosive Device Defeat Fund.

[In thousands of dollars]

Account	Committee recommendation
ATTACK THE NETWORK	725,000
DEFEAT THE DEVICE	950,000
TRAIN THE FORCE	250,000
STAFF AND INFRASTRUCTURE	75,000
TOTAL, JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND	2,000,000

GENERAL PROVISIONS—THIS CHAPTER

The recommended bill includes the following general provisions for this chapter:

Section 11201 establishes that the funds made available in this chapter are not available until October 1, 2008.

Section 11202 establishes the period of availability for obligation for appropriations provided in this chapter.

Section 11203 provides for special transfer authority up to $4,000,000,000 of funds in this chapter.

Section 11204 provides that the Secretary of Defense continue to provide quarterly reports to Congress on a comprehensive set of indicators and measures for progress towards military and political stability in Iraq.

Section 11205 provides that the Director of the Office of Management and Budget, (in consultation with the Secretary of Defense; the Commander, Multi-National Security

Transition Command-Iraq; and the Commander, Combined Security Transition Command-Afghanistan), shall submit a report detailing, among other assessments, the total cost of training and equipping the Iraq and Afghanistan security forces.

Section 11206 provides that funds available to the Department of Defense for operation and maintenance may be used to provide supplies, services and transportation to coalition forces in Iraq and Afghanistan.

Section 11207 provides that supervision and administrative costs associated with a construction project funded through operation and maintenance, Afghanistan Security Forces Fund, or Iraq Security Forces Fund may be obligated at the time a construction contract is awarded.

Section 11208 provides $1,700,000,000 in emergency funding for the Mine Resistant Ambush Protected Vehicle Fund.

Section 11209 defines the Congressional Defense Committees as being the Armed Services Committees and the Subcommittees on Defense of the Committees on Appropriations of the House and the Senate.

CHAPTER 3

GENERAL PROVISIONS—THIS TITLE

DEPARTMENT OF DEFENSE—MILITARY

RECOMMENDATION

In title XI, chapter 3, the following is recommended.

RECONSTRUCTION

The United States and the Government of Iraq are increasing their reliance on U.S. funds for reconstruction efforts in Iraq, and the Department of Defense is financing a large number of long-term and costly projects. Many of these efforts are urgently needed, but the Government of Iraq should bear the majority of these costs. Therefore, the Secretary of Defense is directed to immediately begin to develop the processes and procedures necessary to institute an equal cost sharing between the United States and Iraq for all reconstruction projects funded in this title greater than $750,000. Implementation of this new cost sharing arrangement shall begin no later than October 1, 2008. This is the necessary first step in decreasing the Government of Iraq's heavy reliance on U.S. funding for reconstruction efforts.

GENERAL PROVISIONS—THIS CHAPTER

The recommended bill includes the following general provisions for this chapter:

Section 11301 provides that the amounts recommended under this title are designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

Section 11302 provides for the obligation and expenditure of funds related to activities pursuant to section 504(a)(1) of the National Security Act of 1947.

Section 11303 prohibits the use of funds to contravene laws or regulations promulgated to implement the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Section 11304 requires a report on the United States global strategy to combat and defeat al Qaeda and its affiliates.

Section 11305 provides that none of the funds appropriated in this chapter may be obligated and expended to finance programs or activities denied by Congress in fiscal year 2007 or 2008 appropriations for the Department of Defense or to initiate a new start without prior approval.

Section 11306 provides for an increase in the amount authorized for the United States contribution to NATO to $435,259,000.

Section 11307 prohibits award fees to any defense contractor in contravention to provisions of section 814 of the National Defense Authorization Act, 2007.

Section 11308 provides that: (a) of the funds made available for ''Defense Health Program'' in Public Law 110–28, $75,000,000 are rescinded and, (b) of the funds made available for ''Joint Improvised Explosive Device Defeat Fund'' in division L of the Consolidated Appropriations Act, 2008 (Public Law 110–161), $71,531,000 are rescinded.

Section 11309 provides that of the funding provided in the Readiness, Veterans' Care, Katrina Recovery and Iraq Accountability Appropriations Act, 2007 that remains available for obligation under the Iraq Freedom Fund 2007/2008, $150,000,000 is only for the Joint Rapid Acquisition Cell program and $10,000,000 is only for the transportation of fallen service members.

Section 11310 restricts funds available to the Department of Defense on joint basing initiatives until each affected Secretary of a military department or the head of each affected Federal agency certifies to the congressional defense committees that joint basing at the affected military installation will result in significant costs savings and will not negatively impact the morale of members of the Armed Forces.

Section 11311 allows Combatant Commanders to use funds available in this title in operation and maintenance to purchase an investment item of not more than $500,000 to meet operational requirements.

Section 11312 includes a provision addressing a returning worker exemption.

AMENDMENT #3

TITLE XII

POLICY REGARDING OPERATIONS IN IRAQ

The Committee recommendation includes policy provisions related to Operation Iraqi Freedom.

TITLE XIII

MILITARY EXTRATERRITORIAL JURISDICTION MATTERS

The Committee recommendation includes provisions relating to the MEJA Expansion and Enforcement Act of 2008.

DISCLOSURE OF EARMARKS AND CONGRESSIONAL DIRECTED SPENDING ITEMS

Following is a list of congressional earmarks and congressionally directed spending items (as defined in rule XLIV of the Standing Rules of the Senate) included in the Senate Committee-authorized amendment discussed in this explanatory statement, along with the name of each Senator who submitted a request to the Committee of jurisdiction for each item so identified. Neither the Committee-authorized amendment nor the explanatory statement contains any limited tax benefits or limited tariff benefits as defined in rule XLIV.

EARMARKS

Account	Project	Funding	Member
SUBCOMMITTEE ON COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES			
Department of Commerce: Economic Devel. Asst. Programs.	In the aftermath of Hurricane Katrina, relocation of Port of New Orleans public facilities to Mississippi River, New Orleans, LA.	$75,000,000	Senator Landrieu
Department of Justice: Byrne	Rebuilding capacity and to fight rising crimes in the aftermath of Hurricane Katrina in Alabama	$12,500,000	Senator Shelby
Department of Justice: Byrne	Rebuilding capacity and to fight rising crimes in the aftermath of Hurricane Katrina in Louisiana	$50,000,000	Senator Landrieu
Department of Justice: Byrne	Rebuilding capacity and to fight rising crimes in the aftermath of Hurricane Katrina in Mississippi	$12,500,000	Senator Cochran
SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT			
Corps of Engineers—Construction	In the aftermath of Hurricane Katrina, Lake Ponchartrain and Vicinity, LA	$1,657,000,000	The President, Senator Landrieu, Senator Vitter
Corps of Engineers—Construction	In the aftermath of Hurricane Katrina, West Bank and Vicinity, LA	$1,415,000,000	The President, Senator Landrieu, Senator Vitter
Corps of Engineers—Construction	In the aftermath of Hurricane Katrina, Southeast Louisiana, LA	$1,290,000,000	The President, Senator Landrieu, Senator Vitter
Corps of Engineers—Construction	In the aftermath of Hurricane Katrina, Turkey Creek; Bayou Cumbest; Dantzler; Admiral Island; Franklin Creek; and Deer Island Environmental Restoration Projects, Mississippi.	$173,615,000	Senator Cochran, Senator Wicker
Corps of Engineers—Construction	In the aftermath of Hurricane Katrina, Moss Point, Mississippi, Municipal Relocation Project	$4,550,000	Senator Cochran, Senator Wicker
Corps of Engineers—Construction	In the aftermath of Hurricane Katrina, Waveland, MS, Floodproofing project	$5,000,000	Senator Cochran, Senator Wicker
Corps of Engineers—Construction	In the aftermath of Hurricane Katrina, Mississippi Sound, Sub Aquatic Vegetation Project	$150,000	Senator Cochran, Senator Wicker
Corps of Engineers—Construction	In the aftermath of Hurricane Katrina, Mississippi Coast-wide Dune Restoration Project	$15,430,000	Senator Cochran, Senator Wicker
Corps of Engineers—Construction	In the aftermath of Hurricane Katrina, Mississippi Homeowners Assistance Relocation Project	$397,000,000	Senator Cochran, Senator Wicker
Corps of Engineers—Construction	In the aftermath of Hurricane Katrina, Forrest Heights, Mississippi, Hurricane and Storm Damage Reduction Project	$9,000,000	Senator Cochran, Senator Wicker
Corps of Engineers—Flood Control and Coastal Emergencies.	In the aftermath of Hurricane Katrina, 17th Street, Orleans, and London Avenue Canal pumps and closures, LA	$704,000,000	The President, Senator Landrieu, Senator Vitter
Corps of Engineers—Flood Control and Coastal Emergencies.	In the aftermath of Hurricane Katrina, Stormproofing interior pump stations, LA	$90,000,000	The President, Senator Landrieu, Senator Vitter
Corps of Engineers—Flood Control and Coastal Emergencies.	In the aftermath of Hurricane Katrina, Levee and critical element armoring, LA	$459,000,000	The President, Senator Landrieu, Senator Vitter
Corps of Engineers—Flood Control and Coastal Emergencies.	In the aftermath of Hurricane Katrina, Navigable closure at the Inner Harbor Navigation Canal, LA	$53,000,000	The President, Senator Landrieu, Senator Vitter
Corps of Engineers—Flood Control and Coastal Emergencies.	In the aftermath of Hurricane Katrina, Incorporation of Plaquemines Parish, Louisiana, Non-Federal levee	$456,000,000	The President, Senator Landrieu, Senator Vitter
Corps of Engineers—Flood Control and Coastal Emergencies.	In the aftermath of Hurricane Katrina, reinforcing or Replacing Floodwalls in the existing Lake Ponchartrain and Vicinity, and West Bank and Vicinity Projects in New Orleans, LA.	$412,000,000	The President, Senator Landrieu, Senator Vitter
Corps of Engineers—Flood Control and Coastal Emergencies.	In the aftermath of Hurricane Katrina, repair and restoration of authorized protections and floodwalls in New Orleans, LA.	$393,000,000	The President, Senator Landrieu, Senator Vitter
Corps of Engineers—Flood Control and Coastal Emergencies.	In the aftermath of Hurricane Katrina, complete authorized Lake Ponchartrain and Vicinity and West Bank and Vicinity projects in New Orleans, LA.	$359,000,000	The President, Senator Landrieu, Senator Vitter
Corps of Engineers—Flood Control and Coastal Emergencies.	In the aftermath of Hurricane Katrina, Barrier Island Restoration, MS	$348,000,000	Senator Cochran, Senator Wicker

EARMARKS—Continued

Account	Project	Funding	Member
Department of Energy	Extend a certain cooperative agreement to carry out the FutureGen program	$0	Senator Durbin, Senator Bond
SUBCOMMITTEE ON DEPARTMENT OF HOMELAND SECURITY			
Federal Emergency Management Agency	Gulf Coast Rebuilding assistance for police stations, fire stations, and criminal justice facilities		Senator Landrieu
Federal Emergency Management Agency	Flood map authority for the St. Louis District of the Mississippi Valley Division of the Corps of Engineers		Senator Durbin
SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT			
Small Business Administration: Salaries and expenses	Extension of 8(a) program for participants affected by Hurricane Katrina		Senator Landrieu
Small Business Administration, Salaries and Expenses	Veterans Business Resource Centers	$600,000	Senator Bond, Senator Kerry, Senator Snowe, Senator Levin, Senator Stabenow
SUBCOMMITTEE ON INTERIOR AND RELATED AGENCIES			
Department of the Interior: National Park Service, Historic Preservation Fund.	In the aftermath of Hurricane Katrina, rehabilatation and restoration of historic Jackson Barracks	$15,000,000	Senator Landrieu
Environmental Protection Agency, State and Tribal Assistance Grants.	In the aftermath of Hurricane Katrina, wastewater and storm water infrastructure grant	$5,000,000	Senator Landrieu
Department of the Interior: National Park Service: Land and Water Conservation Fund.	Clarification of prior year acquisition, for barrier island disaster mitigation	$0	Senator Cochran
SUBCOMMITTEE ON LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES			
Department of Health and Human Services: Centers for Medicare and Medicaid Services.	Provider stabilization grants for Medicare participating general acute hospitals in Jackson, Forrest, Hancock, and Harrison Counties of Mississippi and Orleans and Jefferson Parishes of Louisiana.	$350,000,000	Senator Cochran, Senator Landrieu
SUBCOMMITTEE ON MILITARY CONSTRUCTION AND VETERANS AFFAIRS, AND RELATED AGENCIES			
Army	Child Development Center, Fort Wainwright, AK	$17,000,000	The Administration
Army	Child Development Center, Fort Irwin, CA	$11,800,000	The Administration
Army	Soldier Family Assistance Center, Fort Carson, CO	$8,100,000	The President
Army	Child Development Center, Fort Carson, CO	$8,400,000	The Administration
Army	Child Development Center, Fort Gordon, GA	$7,800,000	The Administration
Army	Soldier Family Assistance Center, Fort Stewart, GA	$6,000,000	The President
Army	Child Development Center, Schofield Barracks, HI	$12,500,000	The Administration
Army	Transitioning Warrior Support Complex, Fort Riley, KS	$50,000,000	The President
Army	Soldier Family Assistance Center, Fort Campbell, KY	$7,400,000	The President
Army	Child Development Center, Fort Campbell, KY	$9,900,000	The Administration
Army	Child Development Center, Fort Knox KY	$7,400,000	The Administration
Army	Soldier Family Assistance Center, Fort Polk, LA	$4,900,000	The President
Army	Warrior in Transition Facilities, Fort Drum, NY	$38,000,000	The President
Army	Child Development Center, Fort Bragg, NC	$8,500,000	The Administration
Army	Child Development Center, Fort Sill, OK	$9,000,000	The Administration
Army	Child Development Center, Fort Bliss, TX	$5,700,000	The Administration
Army	Child Development Center, Fort Bliss, TX	$5,900,000	The Administration
Army	Child Development Center, Fort Bliss, TX	$5,700,000	The Administration
Army	Warrior In Transition Unit Operations Facilities, Fort Hood, TX	$9,100,000	The President
Army	Child Development Center, Fort Hood, TX	$7,200,000	The Administration
Army	Child Development Center, Fort Sam Houston, TX	$7,000,000	The Administration
Army	Child Development Center, Fort Lee, VA	$7,400,000	The Administration
Army	New Roads, Bagram, Afghanistan	$27,000,000	The President
Army	Ammunition Supply Point, Bagram, Afghanistan	$62,000,000	The President
Army	Power Plant, Bagram, Afghanistan	$41,000,000	The President
Army	Bulk Fuel Storage & Supply, Phase 3, Bagram, Afghanistan	$23,000,000	The President
Army	Bulk Fuel Storage & Supply, Phase 4, Bagram, Afghanistan	$21,000,000	The President
Army	CIED Road—Rte Alaska, Bagram, Afghanistan	$16,500,000	The President
Army	Aircraft Maintenance Hangar, Bagram, Afghanistan	$5,100,000	The President
Army	Rotary Wing Parking, Ghazni, Afghanistan	$5,000,000	The President
Army	Consolidated Compound, Kabul, Afghanistan	$36,000,000	The President
Army	CIED Road—Rte Connecticut, Afghanistan	$54,000,000	The President
Army	Petro Oil & Lubricant Storage, Camp Adder, Iraq	$10,000,000	The President
Army	Waste Water Treatment & Collection, Camp Adder, Iraq	$9,800,000	The President
Army	Convoy Support Center Relocation, Phase 2, Camp Adder, Iraq	$39,000,000	The President
Army	Corps Support Center Phase 3, Camp Adder, Iraq	$13,200,000	The Administration
Army	Landfill Construction, Al Asad, Iraq	$3,100,000	The President
Army	Urban Bypass Road, Al Asad, Iraq	$43,000,000	The President
Army	Hot Cargo Ramp, Al Asad, Iraq	$18,500,000	The President
Army	South Airfield Apron (India Ramp), Al Asad, Iraq	$28,000,000	The President
Army	Landfill Construction, Camp Anaconda, Iraq	$6,200,000	The President
Army	Hazardous Waste Incinerator, Camp Anaconda, Iraq	$4,300,000	The President
Army	Juvenile TIFRIC, Camp Constitution, Iraq	$11,700,000	The President
Army	Brick Factory, Camp Cropper, Iraq	$9,500,000	The President
Army	Landfill Construction, Fallujah, Iraq	$880,000	The President
Army	Incinerators, Fallujah, Iraq	$5,500,000	The Administration
Army	Landfill Construction, Camp Marez, Iraq	$880,000	The President
Army	Urban Bypass Road, Mosul, Iraq	$43,000,000	The President
Army	North Entry Control Point, Q-West, Iraq	$11,400,000	The President
Army	Perimiter Security Upgrade, Q-West, Iraq	$14,600,000	The President
Army	Landfill Construction, Camp Ramadi, Iraq	$880,000	The President
Army	Incinerator, Camp Ramadi, Iraq	$6,200,000	The Administration
Army	Entry Control Point, Scania, Iraq	$5,000,000	The President
Army	Water Storage Tanks, Scania, Iraq	$9,200,000	The President
Army	Military Control Point, Camp Speicher, Iraq	$5,800,000	The President
Army	Landfill Construction, Camp Speicher, Iraq	$5,900,000	The President
Army	Aviation Navigation Facilities, Camp Speicher, Iraq	$13,400,000	The President
Army	Landfill Construction, Camp Taqqadum, Iraq	$880,000	The President
Army	Landfill Construction, Camp Victory, Iraq	$6,200,000	The President
Army	Level 3 Hospital, Camp Victory, Iraq	$13,400,000	The President
Army	Waste Water Treatment & Collection, Camp Victory, Iraq	$9,800,000	The President
Army	Water Supply, Treatment & Storage, Phase 3, Camp Victory, Iraq	$13,000,000	The President
Army	Water Treatment & Storage, Phase 2, Camp Victory, Iraq	$18,000,000	The President
Army	Landfill Construction, Camp Warrior, Iraq	$880,000	The President
Army	Overhead Cover—eGlass, Various Locations, Iraq	$30,000,000	The President
Army	Overhead Cover—eGlass, Phase 4, Various Locations, Iraq	$105,000,000	The President
Army	Communications Center, Camp Arifjan, Kuwait	$30,000,000	The President
Army	Planning & Design, Various Locations, Worldwide	$78,800,000	The President
Navy	JIEDDO Battle Courses, China Lake, CA	$7,210,000	The Administration
Navy	Armory—5th Marine Regiment, Camp Pendleton, CA	$10,890,000	The President
Navy	Bachelor Quarters & Armory, Camp Pendleton, CA	$34,970,000	The President
Navy	Bachelor Quarters & Dining Facility, Camp Pendleton, CA	$24,390,000	The President
Navy	Company Headquarters—Military Police, Camp Pendleton, CA	$8,240,000	The President
Navy	Explosive Ordinance Detachment-Ops, Camp Pendleton, CA	$13,090,000	The President
Navy	Intelligence Surveillance Reconnaissance, Camp Pendleton, CA	$1,114,000	The President
Navy	Armory—Regimental & Battalion HQ, Camp Pendleton, CA	$5,160,000	The President
Navy	Armory—Intelligence Battalion, Camp Pendleton, CA	$4,180,000	The President
Navy	JIEDDO Battle Courses, Camp Pendleton, CA	$9,270,000	The Administration
Navy	JIEDDO Battle Courses, Point Mugu, CA	$7,250,000	The Administration
Navy	Child Development Center, San Diego, CA	$12,299,000	The Administration
Navy	Regimental Headquarters Addition, Twentynine Palms, CA	$4,440,000	The President
Navy	JIEDDO Battle Courses, Twentynine Palms, CA	$11,250,000	The Administration

EARMARKS—Continued

Account	Project	Funding	Member
Navy	JIEDDO Battle Course Additions, Eglin AFB, FL	$780,000	The Administration
Navy	JIEDDO Battle Courses, Gulfport, MS	$6,570,000	The Administration
Navy	Maintenance/Operations Complex, Camp LeJeune, NC	$43,340,000	The President
Navy	JIEDDO Battle Courses, Camp LeJeune, NC	$11,980,000	The Administration
Navy	Child Development Center, Camp LeJeune, NC	$16,000,000	The Administration
Navy	JIEDDO Battle Courses, Yorktown, VA	$8,070,000	The Administration
Navy	Network Infrastructure Expansion, Camp Lemonier, Djibouti	$6,270,000	The President
Navy	Water Production, Camp Lemonier, Djibouti	$19,140,000	The President
Navy	Full Length Taxiway, Camp Lemonier, Djibouti	$15,490,000	The Administration
Navy	Fuel Farm, Camp Lemonier, Djibouti	$4,000,000	The Administration
Navy	Western Taxiway, Camp Lemonier, Djibouti	$2,900,000	The Administration
Navy	Planning & Design, Various Locations, Worldwide	$11,791,000	The President
Air Force	Child Development Center, Beale AFB, CA	$17,600,000	The Administration
Air Force	Child Development Center, Eglin AFB, FL	$11,000,000	The Administration
Air Force	JIEDDO Training Facility, McGuire AFB, NJ	$6,200,000	The Administration
Air Force	Child Development Center, Cannon AFB, NM	$8,000,000	The Administration
Air Force	Strategic Ramp, Bagram, Afghanistan	$43,000,000	The President
Air Force	Parallel Taxiway, Phase 2, Bagram, Afghanistan	$21,400,000	The President
Air Force	East Side Helo Ramp, Bagram, Afghanistan	$44,400,000	The President
Air Force	ISR Ramp, Kandahar, Afghanistan	$26,300,000	The President
Air Force	Helicopter Maintenance Facilities, Balad AB, Iraq	$34,600,000	The President
Air Force	Foxtrot Taxiway, Balad AB, Iraq	$12,700,000	The President
Air Force	Fighter Ramp, Balad AB, Iraq	$11,000,000	The President
Air Force	Strategic Ramp, Manas AB, Kyrgyzstan	$30,300,000	The President
Air Force	Close Air Support Parking Apron, Al Udeid, Qatar	$60,400,000	The Administration
Air Force	Planning & Design, Various Locations, Worldwide	$35,000,000	The President
Defense-Wide	Special Operations Forces Warehouse, Al Udeid, Qatar	$6,600,000	The President
Defense-Wide	Burn Rehab Unit, Fort Sam Houston, TX	$21,000,000	The President
Family Housing, Navy & Marine Corps	Family Housing Improvements, Camp Pendleton, CA	$10,692,000	The President
Family Housing, Navy & Marine Corps	Family Housing Improvements, Twentynine Palms, CA	$1,074,000	The President
BRAC 2005	Walter Reed National Military Medical Center, MD	$415,910,000	The President
Army National Guard–	In the aftermath of Hurricane Katrina, Barracks Repair, Camp Shelby, MS	11,503	Senator Cochran
Family Housing Improvement Fund	In the aftermath of Hurricane Katrina, Family Housing Privatization, Gulfport, MS	10,500	Senator Cochran
SUBCOMMITTEE ON TRANSPORTATION, AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES			
Department of Housing and Urban Development: Permanent Supportive Housing.	Permanent Supportive Housing vouchers for the State of Louisiana for elderly, disabled and other at-risk homeless individuals directly impacted by Hurricane Katrina.	$76,000,000	Senator Landrieu
Department of Housing and Urban Development: Housing Transition Assistance.	Funding for the State of Louisiana for case management in housing transition services for families in areas impacted by Hurricanes Katrina and Rita of 2005.	$3,000,000	Senator Landrieu
Department of Housing and Urban Development: Project-based Rental Assistance.	Project-based vouchers for the State of Mississippi to assist low-income and homeless individuals directly impacted by Hurricane Katrina.	$20,000,000	Senator Cochran
Department of Housing and Urban Development: Community Development Fund.	Funding for uncompensated housing damage directly related to the consequences of Hurricane Katrina in the State of Alabama.	$50,000,000	Senator Shelby

COMPLIANCE WITH PARAGRAPH 7, RULE XVI OF THE STANDING RULES OF THE SENATE

Paragraph 7 of rule XVI requires that Committee reports accompanying general appropriations bills identify each recommended amendment which proposes an item of appropriation which is not made to carry out the provisions of an existing law, a treaty stipulation, or an act or resolution previously passed by the Senate during that session.

The Committee is filing an original bill, which is not covered under this rule, but reports this information in the spirit of full disclosure.

The Committee recommends funding for the following programs which currently lack authorization for fiscal year 2008:

American Battle Monuments Commission
Department of Commerce:
Economic Development Administration
National Oceanic and Atmospheric Administration
Department of Defense—Military:
Fiscal year 2008:
National Guard Personnel, Air Force
National Guard and Reserve Equipment
Defense Cooperation Account (GP)
Fiscal year 2009:
Military Personnel, Army
Military Personnel, Navy
Military Personnel, Marine Corps
Military Personnel, Air Force
National Guard Personnel, Army
Operation and Maintenance, Army
Operation and Maintenance, Navy
Operation and Maintenance, Marine Corps
Operation and Maintenance, Air Force
Operation and Maintenance, Defense-wide
Operation and Maintenance, Army Reserve
Operation and Maintenance, Navy Reserve
Operation and Maintenance, Marine Corps Reserve Operation and Maintenance, Air Force Reserve Operation and Maintenance, Army National Guard Operation and Maintenance, Air National Guard Afghanistan Security Forces Fund Iraq Security Forces Fund
Aircraft Procurement, Army
Procurement of WTCV, Army
Procurement of Ammunition, Army
Other Procurement, Army
Other Procurement, Navy
Procurement, Marine Corps
Aircraft Procurement, Air Force
Other Procurement, Air Force
Procurement, Defense-wide
Research, Development, Test and Evaluation, Navy Research, Development, Test and Evaluation, Air Force Research, Development, Test and Evaluation, Defense-wide
Defense Health Program
Drug Interdiction and Counter-Drug Activities Joint Improvised Explosive Device Defeat Fund
Mine Resistant Ambush Protected Vehicle Fund (GP)
Department of Defense—Military Construction:
Military Construction, Army
Military Construction, Navy and Marine Corps
Military Construction, Air Force
Military Construction, Defense-Wide
Military Construction, Army National Guard
Family Housing Construction, Navy and Marine Corps
Base Realignment and Closure Account, 2005
Department of Justice:
Byrne Justice Assistance Grant Program [JAG]
Byrne Discretionary Grants
Department of the Army: Corps of Engineers:
Construction and Flood Control and Coastal Emergencies
Department of the Interior:
Secure Rural Schools
Department of Veterans Affairs:
Departmental Administration, General Operating Expenses
Departmental Administration, Information Technology Systems
Departmental Administration, Construction, Major Projects
Foreign Currency Fluctuations Account

COMPLIANCE WITH PARAGRAPH 12, RULE XXVI OF THE STANDING RULES OF THE SENATE

Paragraph 12 of the rule XXVI requires that Committee reports on a bill or joint resolution repealing or amending any statute or part of any statute include ''(a) the text of the statute or part thereof which is proposed to be repealed; and (b) a comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended, showing by stricken-through type and italics, parallel columns, or other appropriate typographical devices the omissions and insertions which would be made by the bill or joint resolution if enacted in the form recommended by the Committee.''

In compliance with this rule, the following changes in existing law proposed to be made by this bill are shown as follows: existing law to be omitted is enclosed in black brackets; new matter is printed in italic; and existing law in which no change is proposed is shown in roman.

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

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PART III—EMPLOYEES

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SUBPART D—PAY AND ALLOWANCES

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CHAPTER 57—TRAVEL, TRANSPORTATION, AND SUBSISTENCE

SUBCHAPTER I—TRAVEL AND SUBSISTENCE EXPENSES; MILEAGE ALLOWANCES

§ 5710. Authority for travel expenses test programs

(a)(1) Notwithstanding any other provision of this subchapter, under a test program which the Administrator of General Services determines to be in the interest of the Government and approves, an agency may pay through the proper disbursing official [for a

period not to exceed 24 months] any necessary travel expenses in lieu of any payment otherwise authorized or required under this subchapter. An agency shall include in any request to the Administrator for approval of such a test program an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the program.

* * * * *

(e) The authority to conduct test programs under this section shall expire [7 years] *16 years* after the date of the enactment of the Travel and Transportation Reform Act of 1998.

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TITLE 8—ALIENS AND NATIONALITY

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CHAPTER 12—IMMIGRATION AND NATIONALITY

SUBCHAPTER I—GENERAL PROVISIONS

Sec.

* * * * *

Sec. 218. H–2A employer applications.
Sec. 218A. H–2A worker employment requirements.
Sec. 218B. Procedure for admission and extension of stay of H–2A workers.
Sec. 218C. Worker protections and labor standards enforcement.
Sec. 218D. Definitions.

* * * * *

§ 1101. Definitions

(a) * * *
(1) * * *

* * * * *

(13)(A) * * *

* * * * *

(C) * * *
(i) * * *
(ii) has been absent from the United States for a continuous period in excess of 180 days, *except in the case of an eligible alien, or the spouse or child of such alien, who is authorized to be absent from the United States under section 317A,*

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SUBCHAPTER II—IMMIGRATION

PART I—SELECTION SYSTEM

§ 1151. Worldwide level of immigration

* * * * *

[SEC. 218. ADMISSION OF TEMPORARY H–2A WORKERS.

[(a) CONDITIONS FOR APPROVAL OF H–2A PETITIONS.—

[(1) A petition to import an alien as an H–2A worker (as defined in subsection (i)(2)) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

[(A) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition, and

[(B) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

[(2) The Secretary of Labor may require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification.

[(b) CONDITIONS FOR DENIAL OF LABOR CERTIFICATION.—The Secretary of Labor may not issue a certification under subsection (a) with respect to an employer if the conditions described in that subsection are not met or if any of the following conditions are met:

[(1) There is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification.

[(2)(A) The employer during the previous two-year period employed H–2A workers and the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer at any time during that period substantially violated a material term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers.

[(B) No employer may be denied certification under subparagraph (A) for more than three years for any violation described in such subparagraph.

[(3) The employer has not provided the Secretary with satisfactory assurances that if the employment for which the certification is sought is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

[(4) The Secretary determines that the employer has not made positive recruitment efforts within a multi-state region of traditional or expected labor supply where the Secretary finds that there are a significant number of qualified United States workers who, if recruited, would be willing to make themselves available for work at the time and place needed. Positive recruitment under this paragraph is in addition to, and shall be conducted within the same time period as, the circulation through the interstate employment service system of the employer's job offer. The obligation to engage in positive recruitment under this paragraph shall terminate on the date the H–2A workers depart for the employer's place of employment.

[(c) SPECIAL RULES FOR CONSIDERATION OF APPLICATIONS.—The following rules shall apply in the case of the filing and consideration of an application for a labor certification under this section:

[(1) DEADLINE FOR FILING APPLICATIONS.—The Secretary of Labor may not require that the application be filed more than 45 days before the first date the employer requires the labor or services of the H–2A worker.

[(2) NOTICE WITHIN SEVEN DAYS OF DEFICIENCIES.—

[(A) The employer shall be notified in writing within seven days of the date of filing if the application does not meet the standards (other than that described in subsection (a)(1)(A)) for approval.

[(B) If the application does not meet such standards, the notice shall include the reasons therefor and the Secretary shall provide an opportunity for the prompt resubmission of a modified application.

[(3) ISSUANCE OF CERTIFICATION.—

[(A) The Secretary of Labor shall make, not later than 30 days before the date such labor or services are first required to be performed, the certification described in subsection (a)(1) if—

[(i) the employer has complied with the criteria for certification (including criteria for the recruitment of eligible individuals as prescribed by the Secretary), and

[(ii) the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have indicated their availability to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary. In considering the question of whether a specific qualification is appropriate in a job offer, the Secretary shall apply the normal and accepted qualifications required by non-H–2A-employers in the same or comparable occupations and crops.

[(B)(i) For a period of 3 years subsequent to the effective date of this section, labor certifications shall remain effective only if, from the time the foreign worker departs for the employer's place of employment, the employer will provide employment to any qualified United States worker who applies to the employer until 50 percent of the period of the work contract, under which the foreign worker who is in the job was hired, has elapsed. In addition, the employer will offer to provide benefits, wages and working conditions required pursuant to this section and regulations.

[(ii) The requirement of clause (i) shall not apply to any employer who—

[(I) did not, during any calendar quarter during the preceding calendar year, use more than 500 man-days of agricultural labor, as defined in section 3(u) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203 (u)),

[(II) is not a member of an association which has petitioned for certification under this section for its members, and

[(III) has not otherwise associated with other employers who are petitioning for temporary foreign workers under this section.

[(iii) Six months before the end of the 3-year period described in clause (i), the Secretary of Labor shall consider the findings of the report mandated by section 403(a)(4)(D) of the Immigration Reform and Control Act of 1986 as well as other relevant materials, including evidence of benefits to United States workers and costs to employers, addressing the advisability of continuing a policy which requires an employer, as a condition for certification under this section, to continue to accept qualified, eligible United States workers for employment after the date the H–2A workers depart for work with the employer. The Secretary's review of such findings and materials shall lead to the issuance of findings in furtherance of the Congressional policy that aliens not be admitted under this section unless there are not sufficient workers in the United States who are able, willing, and qualified to perform the labor or service needed and that the employment of the aliens in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. In the absence of the enactment of Federal legislation prior to three months before the end of the 3-year period described in clause (i) which addresses the subject matter of this subparagraph, the Secretary shall immediately publish the findings required by this clause, and shall promulgate, on an interim or final basis, regulations based on his findings which shall be effective no later than three years from the effective date of this section.

[(iv) In complying with clause (i) of this subparagraph, an association shall be allowed to refer or transfer workers among its members: *Provided,* That for purposes of this section an association acting as an agent for its members shall not be considered a joint employer merely because of such referral or transfer.

[(v) United States workers referred or transferred pursuant to clause (iv) of this subparagraph shall not be treated disparately.

[(vi) An employer shall not be liable for payments under section 655.202(b)(6) of title 20, Code of Federal Regulations (or any successor regulation) with respect to an H–2A worker who is displaced due to compliance with the requirement of this subparagraph, if the Secretary of Labor certifies that the H–2A worker was displaced because of the employer's compliance with clause (i) of this subparagraph.

[(vii)(I) No person or entity shall willfully and knowingly withhold domestic workers prior to the arrival of H–2A workers in order to force the hiring of domestic workers under clause (i).

[(II) Upon the receipt of a complaint by an employer that a violation of subclause (I) has occurred the Secretary shall immediately investigate. He shall within 36 hours of the receipt of the complaint issue findings concerning the alleged violation. Where the Secretary finds that a violation has occurred, he shall immediately suspend the application of clause (i) of this subparagraph with respect to that certification for that date of need.

[(4) HOUSING.—Employers shall furnish housing in accordance with regulations. The employer shall be permitted at the employer's option to provide housing meeting applicable Federal standards for temporary labor camps or to secure housing which meets the local standards for rental and/or public accommodations or other substantially similar class of habitation: *Provided,* That in the absence of applicable local standards, State standards for rental and/or public accommodations or other substantially similar class of habitation shall be met: *Provided further,* That in the absence of applicable local or State standards, Federal temporary labor camp standards shall apply: *Provided further,* That the Secretary of Labor shall issue regulations which address the specific requirements of housing for employees principally engaged in the range production of livestock: *Provided further,* That when it is the prevailing practice in the area and occupation of intended employment to provide family housing, family housing shall be provided to workers with families who request it: And *Provided further,* That nothing in this paragraph shall require an employer to provide or secure housing for workers who are not entitled to it under the temporary labor certification regulations in effect on June 1, 1986. The determination as to whether the housing furnished by an employer for an H–2A worker meets the requirements imposed by this paragraph must be made prior to the date specified in paragraph (3)(A) by which the Secretary of Labor is required to make a certification described in subsection (a)(1) with respect to a petition for the importation of such worker.

[(d) ROLES OF AGRICULTURAL ASSOCIATIONS.—

[(1) PERMITTING FILING BY AGRICULTURAL ASSOCIATIONS.—A petition to import an alien as a temporary agricultural worker, and an application for a labor certification with respect to such a worker, may be filed by an association of agricultural producers which use agricultural services.

[(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association is a joint or sole employer of temporary agricultural workers, the certifications granted under this section to the association may be used for the certified job opportunities of any of its producer members and such workers may be transferred among its producer members to perform agricultural services of a temporary or seasonal nature for which the certifications were granted.

[(3) TREATMENT OF VIOLATIONS.—

[(A) MEMBER'S VIOLATION DOES NOT NECESSARILY DISQUALIFY ASSOCIATION OR OTHER MEMBERS.—If an individual producer member of a joint employer association is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the member, the denial shall apply only to that member of the association unless the Secretary determines that the association or other member participated in, had knowledge of, or reason to know of, the violation.

[(B) ASSOCIATION'S VIOLATION DOES NOT NECESSARILY DISQUALIFY MEMBERS.—

[(i) If an association representing agricultural producers as a joint employer is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the association, the denial shall apply only to the association and does not apply to any individual producer member of the association unless the Secretary determines that the member participated in, had knowledge of, or reason to know of, the violation.

[(ii) If an association of agricultural producers certified as a sole employer is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the association, no individual producer member of such association may be the beneficiary of the services of temporary alien agricultural workers admitted under this section in the commodity and occupation in which such aliens were employed by the association which was denied certification during the period such denial is in force, unless such producer member employs such aliens in the commodity and occupation in question directly or through an association which is a joint employer of such workers with the producer member.

[(e) EXPEDITED ADMINISTRATIVE APPEALS OF CERTAIN DETERMINATIONS.—

[(1) Regulations shall provide for an expedited procedure for the review of a denial of certification under subsection (a)(1) or a revocation of such a certification or, at the applicant's request, for a de novo administrative hearing respecting the denial or revocation.

[(2) The Secretary of Labor shall expeditiously, but in no case later than 72 hours after the time a new determination is requested, make a new determination on the request for certification in the case of an H–2A worker if able, willing, and qualified eligible individuals are not actually available at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified workers. If the employer asserts that any eligible individual who has been referred is not able, willing, or qualified, the burden of proof is on the employer to establish that the individual referred is not able, willing, or qualified because of employmentrelated reasons.

[(f) VIOLATORS DISQUALIFIED FOR 5 YEARS.—An alien may not be admitted to the United States as a temporary agricultural worker if the alien was admitted to the United States as such a worker within the previous five-year period and the alien during that period violated a term or condition of such previous admission.

[(g) AUTHORIZATIONS OF APPROPRIATIONS.—

[(1) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, $10,000,000 for the purposes—

[(A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(H)(ii)(a), and

[(B) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States.

[(2) The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this section.

[(3) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, such sums as may be necessary for the purpose of enabling the Secretary of Labor to make determinations and certifications under this section and under section 212(a)(5)(A)(i).

[(4) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, such sums as may be necessary for the purposes of enabling the Secretary of Agriculture to carry out the Secretary's duties and responsibilities under this section.

[(h) MISCELLANEOUS PROVISIONS.—

[(1) The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

[(2) The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.

[(i) DEFINITIONS.—For purposes of this section:

[(1) The term ''eligible individual'' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(h)(3) with respect to that employment.

[(2) The term ''H–2A worker'' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).]

SEC. 218. H–2A EMPLOYER APPLICATIONS.

(a) APPLICATIONS TO THE SECRETARY OF LABOR.—

(1) IN GENERAL.—No alien may be admitted to the United States as an H–2A worker, or otherwise provided status as an H–2A worker, unless the employer has filed with the Secretary of Labor an application containing—

(A) the assurances described in subsection (b);

(B) a description of the nature and location of the work to be performed;

(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

(D) the number of job opportunities in which the employer seeks to employ the workers.

(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer has applied for an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218A to all workers employed in the job opportunities for which the employer has applied for an H–2A worker under subsection (a) and to all other workers in the same occupation at the place of employment.

(D) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer has applied for an H–2A worker.

(E) REQUIREMENTS FOR PLACEMENT OF THE NONIMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

(i) the nonimmigrant performs duties in whole or in part at 1 or more worksites owned, operated, or controlled by such other employer;

(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

(F) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

(G) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

(H) EMPLOYMENT OF UNITED STATES WORKERS.—

(i) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H–2A nonimmigrant is, or H–2A nonimmigrants are, sought:

(I) CONTACTING FORMER WORKERS.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

(II) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on ''America's Job Bank'' or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

(III) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H–2A workers could not reasonably have been foreseen.

(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrants are, sought and who will be available at the time and place of need.

(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the H–2A worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the H–2A worker who is in the job was hired has elapsed, subject to the following requirements:

(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H–2A workers in order to force the hiring of United States workers under this clause.

(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

(III) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218A, 218B, and 218C.

(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

(d) WITHDRAWAL OF APPLICATIONS.—

(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H–2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

(e) REVIEW AND APPROVAL OF APPLICATIONS.—

(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or worksite, a copy of each such application (and such accompanying documents as are necessary).

(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under subsection (a). Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.

SEC. 218A. H–2A WORKER EMPLOYMENT REQUIREMENTS.

(a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on

United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

(A) IN GENERAL.—An employer applying under section 218(a) for H–2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

(C) FAMILY HOUSING.—If it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

(F) CHARGES FOR HOUSING.—

(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

(i) IN GENERAL.—If the requirement set out in clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers and H–2A workers who are seeking temporary housing while employed in agricultural work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

(iii) AMOUNT OF ALLOWANCE.—

(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

(2) REIMBURSEMENT OF TRANSPORTATION.—

(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

(C) LIMITATION.—

(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORKSITE.—The employer shall provide transportation between the worker's living quarters and the employer's worksite without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

(3) REQUIRED WAGES.—

(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

(B) LIMITATION.—Effective on the date of the enactment of the Emergency Agriculture Relief Act of 2008 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2008, as established by section 655.107 of title 20, Code of Federal Regulations.

(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—If Congress does not set a new wage standard applicable to this section before March 1, 2012, the adverse effect wage rate for each State beginning on March 1, 2012 shall be the wage rate that would have resulted under the methodology in effect on January 1, 2008.

(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

(i) the worker's total earnings for the pay period;

(ii) the worker's hourly rate of pay, piece rate of pay, or both;

(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the ¾ guarantee described in paragraph (4);

(iv) the hours actually worked by the worker;

(v) an itemization of the deductions made from the worker's wages; and

(vi) if piece rates of pay are used, the units produced daily.

(G) REPORT ON WAGE PROTECTIONS.—Not later than December 31, 2010, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

(i) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which

H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

(v) recommendations for future wage protection under this section.

(H) COMMISSION ON WAGE STANDARDS.—

(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H–2A program (in this subparagraph referred to as the ''Commission'').

(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

(I) Four representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

(II) Four representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

(I) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

(V) recommendations for future wage protection under this section.

(iv) FINAL REPORT.—Not later than December 31, 2010, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

(4) GUARANTEE OF EMPLOYMENT.—

(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least ¾ of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the ''¾ guarantee'' described in subparagraph (A).

(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

(5) MOTOR VEHICLE SAFETY.—

(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H–2A employer that uses or causes to be used any vehicle to transport an H–2A worker within the United States.

(ii) DEFINED TERM.—In this paragraph, the term ''uses or causes to be used''—

(I) applies only to transportation provided by an H–2A employer to an H–2A worker, or by a farm labor contractor to an H–2A worker at the request or direction of an H–2A employer; and

(II) does not apply to—

(aa) transportation provided, or transportation arrangements made, by an H–2A worker, unless the employer specifically requested or arranged such transportation; or

(bb) car pooling arrangements made by H–2A workers themselves, using 1 of the workers' own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

(iii) CLARIFICATION.—Providing a job offer to an H–2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H–2A worker by an H–2A employer, shall not constitute an arrangement of, or participation in, such transportation.

(iv) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H–2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

(v) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H–2A worker.

(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

(iii) EFFECT OF WORKERS' COMPENSATION COVERAGE.—If the employer of any H–2A worker provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer's application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218B shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

SEC. 218B. PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H–2A WORKERS.

(a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

(c) CRITERIA FOR ADMISSIBILITY.—

(1) IN GENERAL.—An H–2A worker shall be considered admissible to the United States if the alien is otherwise admissible under this section, section 218, and section 218A, and the alien is not ineligible under paragraph (2).

(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H–2A status, but may not be granted that status in the United States.

(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

(d) PERIOD OF ADMISSION.—

(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the worksite and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

(B) the total period of employment, including such 14-day period, may not exceed 10 months.

(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

(e) ABANDONMENT OF EMPLOYMENT.—

(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H–2A worker prematurely abandons employment.

(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

(f) REPLACEMENT OF ALIEN.—

(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker—

(A) who abandons or prematurely terminates employment; or

(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

(g) IDENTIFICATION DOCUMENT.—

(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify the alien's identity.

(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

(A) The document shall be capable of reliably determining whether—

(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

(C) The document shall—

(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

(h) EXTENSION OF STAY OF H–2A ALIENS IN THE UNITED STATES.—

(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H–2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien's stay and a change in the alien's employment.

(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

(A) for a period of more than 10 months; or

(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

(B) DEFINITION.—For purposes of subparagraph (A), the term ''file'' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H–2A worker (including any extensions) is 3 years.

(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H–2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H–2A worker unless the alien has remained outside the United States for a continuous period equal to at least ⅕ the duration of the alien's previous period of authorized status as an H–2A worker (including any extensions).

(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H–2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H–2A worker.

(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, DAIRY WORKERS, OR HORSE WORKERS.—Notwithstanding any provision of the Emergency Agriculture Relief Act of 2008, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder, goat herder, dairy worker, or horse worker—

(1) may be admitted for an initial period of 12 months;

(2) subject to subsection (j)(5), may have such initial period of admission extended for a period of up to 3 years; and

(3) shall not be subject to the requirements of subsection (h)(5) (relating to periods of absence from the United States).

(j) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, DAIRY WORKERS, OR HORSE WORKERS.—

(1) ELIGIBLE ALIEN.—For purposes of this subsection, the term ''eligible alien'' means an alien—

(A) having nonimmigrant status under section 101(a)(15)(H)(ii)(a) based on employment as a sheepherder, goat herder, dairy worker, or horse worker;

(B) who has maintained such nonimmigrant status in the United States for a cumulative total of 36 months (excluding any period of absence from the United States); and

(C) who is seeking to receive an immigrant visa under section 203(b)(3)(A)(iii).

(2) CLASSIFICATION PETITION.—In the case of an eligible alien, the petition under section 204 for classification under section 203(b)(3)(A)(iii) may be filed by—

(A) the alien's employer on behalf of the eligible alien; or

(B) the eligible alien.

(3) NO LABOR CERTIFICATION REQUIRED.—Notwithstanding section 203(b)(3)(C), no determination under section 212(a)(5)(A) is required with respect to an immigrant visa described in paragraph (1)(C) for an eligible alien.

(4) EFFECT OF PETITION.—The filing of a petition described in paragraph (2) or an application for adjustment of status based on the approval of such a petition shall not constitute

evidence of an alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(a).

(5) EXTENSION OF STAY.—The Secretary shall extend the stay of an eligible alien having a pending or approved classification petition described in paragraph (2) in 1-year increments until a final determination is made on the alien's eligibility for adjustment of status to that of an alien lawfully admitted for permanent residence.

(6) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an eligible alien from seeking adjustment of status in accordance with any other provision of law.

SEC. 218C. WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT.

(a) ENFORCEMENT AUTHORITY.—

(1) INVESTIGATION OF COMPLAINTS.—

(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (G). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

(iii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 2 years.

(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's application under section 218(a) or during the period of 30 days preceding such period of employment—

(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate; and

(ii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 3 years.

(F) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of $90,000.

(G) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218A(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218A(b) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

(2) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218A.

(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.—H–2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

(1) The providing of housing or a housing allowance as required under section 218A(b)(1).

(2) The reimbursement of transportation as required under section 218A(b)(2).

(3) The payment of wages required under section 218A(b)(3) when due.

(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218A(c), compliance with which shall be governed by the provisions of such laws.

(5) The guarantee of employment required under section 218A(b)(4).

(6) The motor vehicle safety requirements under section 218A(b)(5).

(7) The prohibition of discrimination under subsection (d)(2).

(c) PRIVATE RIGHT OF ACTION.—

(1) MEDIATION.—Upon the filing of a complaint by an H–2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

(A) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H–2A workers and agricultural employers without charge to the parties.

(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other nonbinding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

(C) AUTHORIZATION.—

(i) IN GENERAL.—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service $500,000 for each fiscal year to carry out this section.

(ii) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt.

(2) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H–2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

(3) ELECTION.—An H–2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

(4) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this Act shall be construed to diminish the rights and remedies of an H–2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

(6) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

(7) WORKERS' COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

(A) Notwithstanding any other provision of this section, where a State's workers' compensation law is applicable and coverage is provided for an H–2A worker, the workers' compensation benefits shall be the exclusive remedy for the

loss of such worker under this section in the case of bodily injury or death in accordance with such State's workers' compensation law.

(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

(i) a recovery under a State workers' compensation law; or

(ii) rights conferred under a State workers' compensation law.

(8) TOLLING OF STATUTE OF LIMITATIONS.—If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of an H–2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H–2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

(9) PRECLUSIVE EFFECT.—Any settlement by an H–2A worker and an H–2A employer or any person reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H–2A employer on behalf of an H–2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

(d) DISCRIMINATION PROHIBITED.—

(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218A or any rule or regulation pertaining to section 218 or 218A, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of section 218 or 218A or any rule or regulation pertaining to either of such sections.

(2) DISCRIMINATION AGAINST H–2A WORKERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H–2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H–2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

(f) ROLE OF ASSOCIATIONS.—

(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of sections 218 and 218A, as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that an association member or members participated in or had knowledge, or reason to know of the violation, in which case the penalty shall be invoked against the association member or members as well.

SEC. 218D. DEFINITIONS.

For purposes of this section and section 218, 218A, 218B, and 218C:

(1) AGRICULTURAL EMPLOYMENT.—The term ''agricultural employment'' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a).

(2) BONA FIDE UNION.—The term ''bona fide union'' means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

(3) DISPLACE.—The term ''displace'', in the case of an application with respect to 1 or more H–2A workers by an employer, means laying off a United States worker from a job for which the H–2A worker or workers is or are sought.

(4) ELIGIBLE.—The term ''eligible'', when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A).

(5) EMPLOYER.—The term ''employer'' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(6) H–2A EMPLOYER.—The term ''H–2A employer'' means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

(7) H–2A WORKER.—The term ''H–2A worker'' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

(8) JOB OPPORTUNITY.—The term ''job opportunity'' means a job opening for temporary or seasonal full-time employment at a place in the United States to which United States workers can be referred.

(9) LAYING OFF.—

(A) IN GENERAL.—The term ''laying off'', with respect to a worker—

(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218A(b)(4)(D)), or temporary suspension of employment due to weather, markets, or other temporary conditions; but

(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

(10) REGULATORY DROUGHT.—The term ''regulatory drought'' means a decision subsequent to the filing of the application under section 218 by an entity not under the control of the employer making such filing which restricts the employer's access to water for irrigation purposes and reduces or limits the employer's ability to produce an agricultural commodity, thereby reducing the need for labor.

(11) SEASONAL.—Labor is performed on a ''seasonal'' basis if—

(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

(B) from its nature, it may not be continuous or carried on throughout the year.

(12) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Homeland Security.

(13) TEMPORARY.—A worker is employed on a ''temporary'' basis where the employment is intended not to exceed 10 months.

(14) UNITED STATES WORKER.—The term ''United States worker'' means any worker, whether a national of the United States, an alien lawfully admitted for permanent residence, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).

* * * * *

§ 1153. Allocation of immigrant visas

NOTE

PILOT IMMIGRATION PROGRAM

Pub. L. 102–395, title VI, Sec. 610, Oct. 6, 1992, 106 Stat. 1874, as amended by Pub. L. 105–119, title I, Sec. 116(a), Nov. 26, 1997, 111 Stat. 2467; Pub. L. 106–396, Sec. 402, Oct. 30, 2000, 114 Stat. 1647; Pub. L. 107–273, div. C, title I, Sec. 11037(a), Nov. 2, 2002, 116 Stat. 1847; Pub. L. 108–156, Sec. 4, Dec. 3, 2003, 117 Stat. 1945, provided that:

''(a) * * *

''(b) For purposes of the pilot program established in subsection (a), beginning on October 1, 1992, but no later than October 1, 1993, the Secretary of State, together with the Secretary of Homeland Security, shall set aside 3,000 visas annually [for 15 years] *for 20 years* to include such aliens as are eligible for admission under section 203(b)(5) of the Immigration and Nationality Act [8 U.S.C. 1153(b)(5)] and this section, as well as spouses or children which are eligible, under the terms of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], to accompany or follow to join such aliens.

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PART II—ADMISSION QUALIFICATIONS FOR ALIENS; TRAVEL CONTROL OF CITIZENS AND ALIENS

* * * * *

§ 1181. Admission of immigrants into the United States

(a) * * *

(b) READMISSION WITHOUT REQUIRED DOCUMENTS; ATTORNEY GENERAL'S DISCRETION.—Notwithstanding the provisions of section 1182(a)(7)(A) of this title in such cases or in such classes of cases and under such conditions as may be by regulations prescribed, returning resident immigrants, defined in section 1101(a)(27)(A), *including an eligible alien authorized to reside in a foreign country under section 317A and the spouse or child of such eligible alien, if appropriate*, of this title, who are otherwise admissible may be readmitted to the United States by the Attorney General in his discretion without being required to obtain a passport, immigrant visa, reentry permit or other documentation.

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§ 1182. Inadmissible aliens

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(1) * * *

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(D) * * *

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(E) HEALTH CARE WORKERS WITH OTHER OBLIGATIONS.—

(i) IN GENERAL.—An alien who seeks to enter the United States for the purpose of performing labor as a physician or other health care worker is inadmissible unless the alien submits to the Secretary of Homeland Security or the Secretary of State, as appropriate, an attestation that the alien is not seeking to enter the United States for such purpose during any period in which the alien has an outstanding obligation to the government of the alien's country of origin or the alien's country of residence.

(ii) OBLIGATION DEFINED.—In this subparagraph, the term ''obligation'' means an obligation incurred as part of a valid, voluntary individual agreement in which the alien received financial assistance to defray the costs of education or training to qualify as a physician or other health care worker in consideration for a commitment to work as a physician or other health care worker in the alien's country of origin or the alien's country of residence.

(iii) WAIVER.—The Secretary of Homeland Security may waive a finding of inadmissibility under clause (i) if the Secretary determines that—

(I) the obligation was incurred by coercion or other improper means;

(II) the alien and the government of the country to which the alien has an outstanding obligation have reached a valid, voluntary agreement, pursuant to which the alien's obligation has been deemed satisfied, or the alien has shown to the satisfaction of the Secretary that the alien has been unable to reach such an agreement because of coercion or other improper means; or

(III) the obligation should not be enforced due to other extraordinary circumstances, including undue hardship that would be suffered by the alien in the absence of a waiver.

* * * * *

(7) * * *

(A) * * *

(i) * * *

(I) who is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by this chapter, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality if such document is required under the regulations issued by the Attorney General under section 1181(a) of this Act *other than an eligible alien authorized to reside in a foreign country under section 317A and the spouse or child of such eligible alien, if appropriate*, or

* * * * *

§ 1184. Admission of nonimmigrants

(a) * * *

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(g) * * *

(1) * * *

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(9)(A) Subject to subparagraphs (B) and (C), [an alien who has already been counted toward the numerical limitation of paragraph (1)(B) during fiscal year 2004, 2005, or 2006 shall not again be counted toward such limitation during fiscal year 2007.] *an alien who has been present in the United States as an H–2B nonimmigrant during any 1 of the 3 fiscal years immediately preceding the fiscal year of the approved start date of a petition for a nonimmigrant worker described in section 101(a)(15)(H)(ii)(b) shall not be counted toward such limitation for the fiscal year in which the petition is approved.* Such an alien shall be considered a returning worker.

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PART V—ADJUSTMENT AND CHANGE OF STATUS

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§ 1255. Adjustment of status of nonimmigrant to that of person admitted for permanent residence

(a) * * *

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(n) ADJUSTMENT OF STATUS FOR EMPLOYMENT-BASED IMMIGRANTS.—

(1) ELIGIBILITY.—The Secretary of Homeland Security shall provide for the filing of an adjustment application by an alien (and any eligible dependents of such alien) who has an approved or pending petition under subparagraph (E) or (F) of section 204(a)(1), regardless of whether an immigrant visa is immediately available at the time the application is filed.

(2) VISA AVAILABILITY.—An application filed pursuant to paragraph (1) shall not be approved until an immigrant visa becomes available.

(3) FEES.—If an application is filed pursuant to paragraph (1) at a time at which a visa is not immediately available, a fee, known as the Supplemental Adjustment of Status Application Fee, in the amount of $1500 shall be paid on behalf of the beneficiary of such petition. Such Fee may not be charged for a dependent accompanying or following to join such beneficiary.

SUBCHAPTER III—NATIONALITY AND NATURALIZATION

PART I—NATIONALITY AT BIRTH AND COLLECTIVE NATURALIZATION

* * * * *

§ 1401. Nationals and citizens of United States at birth

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SEC. 317A. TEMPORARY ABSENCE OF ALIENS PROVIDING HEALTH CARE IN DEVELOPING COUNTRIES.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary of Homeland Security shall allow an eligible alien and the spouse or child of such alien to reside in a candidate country during the period that the eligible alien is working as a physician or other health care worker in a candidate country. During such period the eligible alien and such spouse or child shall be considered—

(1) to be physically present and residing in the United States for purposes of naturalization under section 316(a); and

(2) to meet the continuous residency requirements under section 316(b).

(b) DEFINITIONS.—In this section:

(1) CANDIDATE COUNTRY.—The term ''candidate country'' means a country that the Secretary of State determines to be—

(A) eligible for assistance from the International Development Association, in which the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for the applicable fiscal year, as defined by the International Bank for Reconstruction and Development;

(B) classified as a lower middle income country in the then most recent edition of the World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development and having an income greater than the historical ceiling for International Development Association eligibility for the applicable fiscal year; or

(C) qualified to be a candidate country due to special circumstances, including natural disasters or public health emergencies.

(2) ELIGIBLE ALIEN.—The term ''eligible alien'' means an alien who—

(A) has been lawfully admitted to the United States for permanent residence; and

(B) is a physician or other healthcare worker.

(c) CONSULTATION.—The Secretary of Homeland Security shall consult with the Secretary of State in carrying out this section.

(d) PUBLICATION.—The Secretary of State shall publish—

(1) not later than 180 days after the date of the enactment of this section, a list of candidate countries;

(2) an updated version of the list required by paragraph (1) not less often than once each year; and

(3) an amendment to the list required by paragraph (1) at the time any country qualifies as a candidate country due to special circumstances under subsection (b)(1)(C).

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TITLE 10—ARMED FORCES

* * * * *

Subtitle E—Reserve Components

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PART IV—TRAINING FOR RESERVE COMPONENTS AND EDUCATIONAL ASSISTANCE PROGRAMS

* * * * *

CHAPTER 1607—EDUCATIONAL ASSISTANCE FOR RESERVE COMPONENT MEMBERS SUPPORTING CONTINGENCY OPERATIONS AND CERTAIN OTHER OPERATIONS

* * * * *

§ 16163. Eligibility for educational assistance

* * * * *

(a) * * *

* * * * *

(e) BAR FROM DUPLICATION OF EDUCATIONAL ASSISTANCE ALLOWANCE.—

(1) Except as provided in paragraph (2), an individual entitled to educational assistance under this chapter who is also eligible for educational assistance under chapter 1606 of this title, chapter 30, 31, 32, *33*, or 35 of title 38, or under the Hostage Relief Act of 1980 (Public Law 96–449; 5 U.S.C. 5561 note) may not receive assistance under more than one such programs and shall elect (in such form and manner as the Secretary of Veterans Affairs may prescribe) under which program the member elects to receive educational assistance.

* * * * *

TITLE 18—CRIMES AND CRIMINAL PROCEDURE

PART I—CRIMES

CHAPTER 1—GENERAL PROVISIONS

* * * * *

§ 7. Special maritime and territorial jurisdiction of the United States defined

* * * * *

(9) With respect to offenses committed by or against a national of the United States as that term is used in section 101 of the Immigration and Nationality Act—

(A) the premises of United States diplomatic, consular, military or other United States Government missions or entities in foreign States, including the buildings, parts of buildings, and land appurtenant or ancillary thereto or used for purposes of those missions or entities, irrespective of ownership; and

(B) residences in foreign States and the land appurtenant or ancillary thereto, irrespective of ownership, used for purposes of those missions or entities or used by United States personnel assigned to those missions or entities.

Nothing in this paragraph shall be deemed to supersede any treaty or international agreement with which this paragraph conflicts. This paragraph does not apply with respect to an offense committed by a person described in [section 3261(a)] *section 3261(a)(1) or section 3261(a)(2)* of this title.

* * * * *

CHAPTER 46—FORFEITURE

* * * * *

§ 982. Criminal forfeiture

(a) * * *

* * * * *

(2) The court, in imposing sentence on a person convicted of a violation of, or a conspiracy to violate—

(A) * * *

(B) section 471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545, 842, 844, 1028, 1029, [or 1030] *1030, or 1041* of this title,

shall order that the person forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation.

* * * * *

CHAPTER 47—FRAUD AND FALSE STATEMENTS

* * * * *

Sec.

* * * * *

1040. * * *

1041. War profiteering and fraud.

* * * * *

§ 1040. * * *

§ 1041. War profiteering and fraud

(a) PROHIBITION.—Whoever, in any matter involving a contract with, or the provision of goods or services to, the United States or a provisional authority, in connection with a mission of the United States Government overseas, knowingly—

(1)(A) executes or attempts to execute a scheme or artifice to defraud the United States or that authority; or

(B) materially overvalues any good or service with the intent to defraud the United States or that authority;

shall be fined not more than $1,000,000 or imprisoned not more than 20 years, or both; or

(2) in connection with the contract or the provision of those goods or services—

(A) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(B) makes any materially false, fictitious, or fraudulent statements or representations; or

(C) makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined not more than $1,000,000 or imprisoned not more than 10 years, or both.

(b) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

(c) VENUE.—A prosecution for an offense under this section may be brought—

(1) as authorized by chapter 211 of this title;

(2) in any district where any act in furtherance of the offense took place; or

(3) in any district where any party to the contract or provider of goods or services is located.

* * * * *

CHAPTER 95—RACKETEERING

* * * * *

§ 1956. Laundering of monetary instruments

* * * * *

(c) As used in this section—

* * * * *

(7) the term ''specified unlawful activity'' means—

* * * * *

(D) an offense under section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member), section 152 (relating to concealment of assets; false oaths and claims; bribery), section 175c (relating to the variola virus), section 215 (relating to commissions or gifts for procuring loans), section 351 (relating to congressional or Cabinet officer assassination), any of sections 500 through 503 (relating to certain counterfeiting offenses), section 513 (relating to securities of States and private entities), section 541 (relating to goods falsely classified), section 542 (relating to entry of goods by means of false statements), section 545 (relating to smuggling goods into the United States), section 549 (relating to removing goods from Customs custody), section 641 (relating to public money, property, or records), section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee), section 657 (relating to lending, credit, and insurance institutions), section 658 (relating to property mortgaged or pledged to farm credit agencies), section 666 (relating to theft or bribery concerning programs receiving Federal funds), section 793, 794, or 798 (relating to espionage), section 831 (relating to prohibited transactions involving nuclear materials), section 844(f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce), section 875 (relating to interstate communications), section 922(*l*) (relating to the unlawful importation of firearms), section 924(n) (relating to firearms trafficking), section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country), section 1005 (relating to fraudulent bank entries), 1006[2] (relating to fraudulent Federal credit institution entries), 1007[2] (relating to Federal Deposit Insurance transactions), 1014[2] (relating to fraudulent loan or credit applications), section 1030 (relating to computer fraud and abuse), 1032[2] (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution), *section 1041 (relating to war profiteering and fraud),* section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons), section 1201 (relating to kidnapping), section 1203 (relating to hostage taking), section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction), section 1708 (theft from the mail), section 1751 (relating to Presidential assassination), section 2113 or 2114 (relating to bank and postal robbery and theft), section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms), section 2319 (relating to copyright infringement), section 2320 (relating to trafficking in counterfeit goods and services), section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), section 2332g (relating to missile systems designed to destroy aircraft), section 2332h (relating to radiological dispersal devices), or section 2339A or 2339B (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code, a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals), section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling), section 422 of the Controlled Substances Act (relating to transportation of drug paraphernalia), section 38(c) (relating to criminal violations) of the Arms Export Control Act, section 11 (relating to violations) of the Export Administration Act of 1979, section 206 (relating to penalties) of the International Emergency Economic Powers Act, section 16 (relating to offenses and punishment) of the Trading with the Enemy Act, any felony violation of section 15 of the Food Stamp Act of 1977 (relating to food stamp fraud) involving a quantity of coupons having a value of not less than $5,000, any violation of section 543(a)(1) of the Housing Act of 1949 (relating to equity skimming), any felony violation of the Foreign Agents Registration Act of 1938, any felony violation of the Foreign Corrupt Practices Act, or section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) (relating to prohibitions governing atomic weapons)[3]

* * * * *

CHAPTER 96—RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

* * * * *

§ 1961. Definitions

As used in this chapter—

(1) ''racketeering activity'' means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891–894 (relating to extortionate credit transactions), section 1028 (relating to fraud and related activity in connection with identification documents), section 1029 (relating to fraud and related activity in connection with access devices), *section 1041 (relating to war profiteering and fraud),* section 1084 (relating

to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), sections 1461–1465 (relating to obscene matter), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant), section 1542 (relating to false statement in application and use of passport), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud and misuse of visas, permits, and other documents), sections 1581–1592 (relating to peonage, slavery, and trafficking in persons),[1] section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), sections 2251, 2251A, 2252, and 2260 (relating to sexual exploitation of children), sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles), sections 2314 and 2315 (relating to interstate transportation of stolen property), section 2318 (relating to trafficking in counterfeit labels for phonorecords, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of a copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks), section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts), sections 2341–2346 (relating to trafficking in contraband cigarettes), sections 2421–24 (relating to white slave traffic), sections 175–178 (relating to biological weapons), sections 229–229F (relating to chemical weapons), section 831 (relating to nuclear materials), (C) any act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds), (D) any offense involving fraud connected with a case under title 11 (except a case under section 157 of this title), fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), punishable under any law of the United States, (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act, (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain, or (G) any act that is indictable under any provision listed in section 2332b(g)(5)(B);

* * * * *

PART II—CRIMINAL PROCEDURE

* * * * *

CHAPTER 212—MILITARY EXTRATERRITORIAL JURISDICTION

* * * * *

§ 3261. Criminal offenses committed by certain members of the Armed Forces and by persons employed by or accompanying the Armed Forces outside the United States

(a) * * *

(1) while employed by or accompanying the Armed Forces outside the United States; [or]

(2) while a member of the Armed Forces subject to chapter 47 of title 10 (the Uniform Code of Military Justice)[,]*;*

(3) while employed by any Department or agency of the United States other than the Armed Forces in a foreign country in which the Armed Forces are conducting a qualifying military operation; or

(4) while employed as a security officer or security contractor by any Department or agency of the United States other than the Armed Forces,

shall be punished as provided for that offense.

* * * * *

§ 3262. Arrest and commitment

(a) The Secretary of Defense may designate and authorize any person serving in a law enforcement position in the Department of Defense to arrest, in accordance with applicable international agreements, outside the United States any person described in [section 3261(a)] *section 3261(a)(1) or 3261(a)(2)* if there is probable cause to believe that such person violated section 3261(a).

(b) The Attorney General may designate and authorize any person serving in a law enforcement position in the Department of Justice, the Department of Defense, the Department State, or any other Executive agency to arrest, in accordance with applicable international agreements, outside the United States any person described in section 3261(a) if there is probable cause to believe that such person violated section 3261(a).

[(b)] *(c)* Except as provided in sections 3263 and 3264, a person arrested under subsection (a) shall be delivered as soon as practicable to the custody of civilian law enforcement authorities of the United States for removal to the United States for judicial proceedings in relation to conduct referred to in such subsection unless such person has had charges brought against him or her under chapter 47 of title 10 for such conduct.

* * * * *

§ 3263. Delivery to authorities of foreign countries

(a) Any person designated and authorized under section 3262(a) may deliver a person described in [section 3261(a)] *section 3261(a)(1) or 3261(a)(2)* to the appropriate authorities of a foreign country in which such person is alleged to have violated section 3261(a) if—

* * * * *

§ 3264. Limitation on removal

(a) Except as provided in subsection (b), and except for a person delivered to authorities of a foreign country under section 3263, a person *described in section 3261(a)(1) or 3261(a)(2)* arrested for or charged with a violation of section 3261(a) shall not be removed—

* * * * *

§ 3265. Initial proceedings

(a)(1) In the case of any person *described in section 3261(a)(1) or 3261(a)(2)* arrested for or charged with a violation of section 3261(a) who is not delivered to authorities of a foreign country under section 3263, the initial appearance of that person under the Federal Rules of Criminal Procedure—

* * * * *

§ 3266. Regulations

(a) The Secretary of Defense, after consultation with the Secretary of State and the Attorney General, shall prescribe regulations governing the apprehension, detention, delivery, and removal of persons [under this chapter] *described in section 3261(a)(1) or 3261(a)(2)* and the facilitation of proceedings under section 3265. Such regulations shall be uniform throughout the Department of Defense.

* * * * *

(c) * * *

(d) The Attorney General, after consultation with the Secretary of Defense, the Secretary of State, and the Director of National Intelligence, may prescribe regulations governing the investigation, apprehension, detention, delivery, and removal of persons described in sections 3261(a)(3) and 3261(a)(4) and describing the notice due, if any, foreign nationals potentially subject to the criminal jurisdiction of the United States under those sections.

* * * * *

§ 3267. Definitions

As used in this chapter:

(1) The term ''employed by the Armed Forces outside the United States'' means—

[(A) employed as—

[(i) a civilian employee of—

[(I) the Department of Defense (including a nonappropriated fund instrumentality of the Department); or

[(II) any other Federal agency, or any provisional authority, to the extent such employment relates to supporting the mission of the Department of Defense overseas;

[(ii) a contractor (including a subcontractor at any tier) of—

[(I) the Department of Defense (including a nonappropriated fund instrumentality of the Department); or

[(II) any other Federal agency, or any provisional authority, to the extent such employment relates to supporting the mission of the Department of Defense overseas; or

[(iii) an employee of a contractor (or subcontractor at any tier) of—

[(I) the Department of Defense (including a nonappropriated fund instrumentality of the Department); or

[(II) any other Federal agency, or any provisional authority, to the extent such employment relates to supporting the mission of the Department of Defense overseas;]

(A) employed by or performing services under a contract with or grant from the Department of Defense (including a nonappropriated fund instrumentality of the Department) as—

(i) a civilian employee (including an employee from any other Executive agency on temporary assignment to the Department of Defense);

(ii) a contractor (including a subcontractor at any tier); or

(iii) an employee of a contractor (including a subcontractor at any tier);

* * * * *

(4) The terms ''Judge Advocate General'' and ''judge advocate'' have the meanings given such terms in section 801 of title 10.

(5) The term ''employed by any Department or agency of the United States other than the Armed Forces'' means—

(A) employed by or performing services under a contract with or grant from any Department or agency of the United States, or any provisional authority funded in whole or substantial part or created by the United States Government, other than the Department of Defense as—

(i) a civilian employee;

(ii) a contractor (including a subcontractor at any tier); or

(iii) an employee of a contractor (including a subcontractor at any tier);

(B) present or residing outside the United States in connection with such employment; and

(C) not a national of or ordinarily a resident in the host nation.

(6) The term ''employed as a security officer or security contractor by any Department or agency of the United States other than the Armed Forces'' means—

(A) employed by or performing services under a contract with or grant from any Department or agency of the United States, or any provisional authority funded in whole or substantial part or created by the United States Government, other than the Department of Defense as—

(i) a civilian employee;

(ii) a contractor (including a subcontractor at any tier); or

(iii) an employee of a contractor (including a subcontractor at any tier);

(B) authorized in the course of such employment—

(i) to provide physical protection to or security for persons, places, buildings, facilities, supplies, or means of transportation;

(ii) to carry or possess a firearm or dangerous weapon, as defined by section 930(g)(2) of this title;

(iii) to use force against another; or

(iv) to supervise individuals performing the activities described in clause (i), (ii) or (iii);

(C) present or residing outside the United States in connection with such employment; and

(D) not a national of or ordinarily resident in the host nation.

(7) The term ''qualifying military operation'' means—

(A) a military operation covered by a declaration of war or an authorization of the use of military force by Congress;

(B) a contingency operation (as defined in section 101 of title 10); or

(C) any other military operation outside of the United States, including a humanitarian assistance or peace keeping operation, provided such operation is conducted pursuant to an order from or approved by the Secretary of Defense.

* * * * *

CHAPTER 213—LIMITATIONS

* * * * *

§ 3287. Wartime suspension of limitations

When the United States is at war *or Congress has enacted a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b))*, the running of any statute of limitations applicable to any offense—

(1) involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not, or

(2) committed in connection with the acquisition, care, handling, custody, control or disposition of any real or personal property of the United States, or

(3) committed in connection with the negotiation, procurement, award, performance, payment for, interim financing, cancelation, or other termination or settlement, of any contract, subcontract, or purchase order which is connected with or related to the prosecution of the war *or directly connected with or related to the authorized use of the Armed Forces*, or with any disposition of termination inventory by any war contractor or Government agency, shall be suspended until [three years] *5 years* after the termination of hostilities as [proclaimed by the President] *proclaimed by a Presidential proclamation, with notice to Congress*, or by a concurrent resolution of Congress.

Definitions of terms in section 103 of title 41 shall apply to similar terms used in this section.

For purposes of applying such definitions in this section, the term ''war'' includes a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b)).

* * * * *

TITLE 22—FOREIGN RELATIONS AND INTERCOURSE

* * * * *

CHAPTER 38—DEPARTMENT OF STATE

* * * * *

§ 2696. Nondiscretionary personnel costs, currency fluctuations, and other contingencies

(a) * * *

* * * * *

(b) * * *

* * * * *

(1) * * *

* * * * *

(7)(A) * * *

* * * * *

[(D) The authorities contained in this section may only be exercised to such an extent and in such amounts as specifically provided for in advance in appropriations Acts.]

(D) The authorities contained in this paragraph may be exercised only with respect to funds appropriated or otherwise made available after fiscal year 2008.

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TITLE 26—INTERNAL REVENUE CODE

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SUBTITLE F—PROCEDURE AND ADMINISTRATION

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CHAPTER 76—JUDICIAL PROCEEDINGS

* * * * *

SUBCHAPTER C—THE TAX COURT

* * * * *

PART III—MISCELLANEOUS PROVISIONS

* * * * *

§ 7472. Expenditures

The Tax Court is authorized to make such expenditures (including expenditures for personal services and rent at the seat of Government and elsewhere, and for law books, books of reference, and periodicals), as may be necessary efficiently to execute the functions vested in the Tax Court. Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed *after April 24, 1999, that is incurred* after the date of the enactment of the Pension Protection Act of 2006, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code. Except as provided in section 7475, all expenditures of the Tax Court shall be allowed and paid, out of any moneys appropriated for purposes of the Tax Court, upon presentation of itemized vouchers therefor signed by the certifying officer designated by the chief judge.

* * * * *

TITLE 28—JUDICIARY AND JUDICIAL PROCEDURE

* * * * *

PART III—COURT OFFICERS AND EMPLOYEES

* * * * *

CHAPTER 41—ADMINISTRATIVE OFFICE OF UNITED STATES COURTS

* * * * *

§ 604. Duties of Director generally

(a) * * *

(1) * * *

* * * * *

(5) Fix the compensation of clerks of court, deputies, librarians, criers, messengers, law clerks, secretaries, stenographers, clerical assistants, and other employees of the courts whose compensation is not otherwise fixed by law, and, notwithstanding any other provision of law, pay on behalf of Justices and judges of the United States appointed to hold office during good behavior, *bankruptcy judges appointed under chapter 6 of title 28; territorial district court judges appointed under section 24 of the Organic Act of Guam (48 U.S.C. 1424b), section 1(b) of the Act of November 8, 1977 (48 U.S.C. 1821), or section 24(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614(a)); bankruptcy judges retired under section 377 of title 28; and judges retired under section 373 of title 28*, aged 65 or over, any increases in the cost of Federal Employees' Group Life Insurance imposed after April 24, 1999, including any expenses generated by such payments, as authorized by the Judicial Conference of the United States;

* * * * *

TITLE 38—VETERANS' BENEFITS

* * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

* * * * *

Chap. Sec.

* * * * *

32. * * *

33. Post-9/11 Educational Assistance 3301

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PART III—READJUSTMENT AND RELATED BENEFITS

* * * * *

CHAPTER 30—ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM

* * * * *

SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

* * * * *

§ 3015. Amount of basic educational assistance

(a) * * *

(1) for an approved program of education pursued on a full-time basis, at the monthly rate of—

[(A) for months beginning on or after January 1, 2002, $800;

[(B) for months occurring during fiscal year 2003, $900;

[(C) for months occurring during fiscal year 2004, $985; and]

(A) for months occurring during the period beginning on August 1, 2008, and ending on the last day of fiscal year 2009, $1,321; and

[(D)] *(B)* for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year increased under subsection (h); or

* * * * *

(b) * * *

(1) for an approved program of education pursued on a full-time basis, at the monthly rate of—

[(A) for months beginning on or after January 1, 2002, $650;

[(B) for months occurring during fiscal year 2003, $732;

[(C) for months occurring during fiscal year 2004, $800; and]

(A) for months occurring during the period beginning on August 1, 2008, and ending on the last day of fiscal year 2009, $1,073; and

[(D)] *(B)* for months occurring during a subsequent fiscal year, the amount for months occurring during the previous fiscal year increased under subsection (h); or

* * * * *

(h)(1) With respect to any fiscal year, the Secretary shall provide a percentage increase in the rates payable under subsections (a)(1) and (b)(1) equal to the percentage by which—

[(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

[(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).]

(A) the average cost of undergraduate tuition in the United States, as determined by the National Center for Education Statistics, for the last academic year preceding the beginning of the fiscal year for which the increase is made, exceeds

(B) the average cost of undergraduate tuition in the United States, as so determined, for the academic year preceding the academic year described in subparagraph (A).

* * * * *

SUBCHAPTER IV—TIME LIMITATION FOR USE OF ELIGIBILITY AND ENTITLEMENT; GENERAL AND ADMINISTRATIVE PROVISIONS

* * * * *

§ 3033. Bar to duplication of educational assistance benefits

(a)(1) An individual entitled to educational assistance under a program established by this chapter who is also eligible for educational assistance under a program under chapter 31, 32, *33,* or 35 of this title, under chapter 106 or 107 of title 10, or under the Hostage Relief Act of 1980 (Public Law 96–449; 5 U.S.C. 5561 note) may not receive assistance under two or more of such programs concurrently but shall elect (in such form and manner as the Secretary may prescribe) under which program to receive educational assistance.

* * * * *

(c) An individual who serves in the Selected Reserve may not receive credit for such service under [both the program established by this chapter and the program established by chapter 106 of title 10] *two or more of the programs established by this chapter, chapter 33 of this title, and chapters 1606 and 1607 of title 10* but shall elect (in such form and manner as the Secretary may prescribe) the program to which such service is to be credited.

* * * * *

CHAPTER 33—POST–9/11 EDUCATIONAL ASSISTANCE

SUBCHAPTER I—DEFINITIONS

Sec.
3301. Definitions.

SUBCHAPTER II—EDUCATIONAL ASSISTANCE

3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement.
3312. Educational assistance: duration.
3313. Educational assistance: amount; payment.
3314. Tutorial assistance.
3315. Licensure and certification tests.
3316. Supplemental educational assistance: members with critical skills or specialty; members serving additional service.
3317. Public-private contributions for additional educational assistance.
3318. Additional assistance: relocation or travel assistance for individual relocating or traveling significant distance for pursuit of a program of education.

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

3321. Time limitation for use of and eligibility for entitlement.
3322. Bar to duplication of educational assistance benefits.
3323. Administration.
3324. Allocation of administration and costs.

SUBCHAPTER I—DEFINITIONS

§ 3301. Definitions

In this chapter:

(1) The term 'active duty' has the meanings as follows (subject to the limitations specified in sections 3002(6) and 3311(b) of this title):

(A) In the case of members of the regular components of the Armed Forces, the meaning given such term in section 101(21)(A) of this title.

(B) In the case of members of the reserve components of the Armed Forces, service on active duty under a call or order to active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10.

(2) The term 'entry level and skill training' means the following:

(A) In the case of members of the Army, Basic Combat Training and Advanced Individual Training.

(B) In the case of members of the Navy, Recruit Training (or Boot Camp) and Skill Training (or so-called 'A' School).

(C) In the case of members of the Air Force, Basic Military Training and Technical Training.

(D) In the case of members of the Marine Corps, Recruit Training and Marine Corps Training (or School of Infantry Training).

(E) In the case of members of the Coast Guard, Basic Training.

(3) The term 'program of education' has the meaning the meaning given such term in section 3002 of this title, except to the extent otherwise provided in section 3313 of this title.

(4) The term 'Secretary of Defense' has the meaning given such term in section 3002 of this title.

SUBCHAPTER II—EDUCATIONAL ASSISTANCE

§ 3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement

(a) ENTITLEMENT.—Subject to subsections (d) and (e), each individual described in subsection (b) is entitled to educational assistance under this chapter.

(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual as follows:

(1) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 36 months on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty; or

(ii) is discharged or released from active duty as described in subsection (c).

(2) An individual who—

(A) commencing on or after September 11, 2001, serves at least 30 continuous days on active duty in the Armed Forces; and

(B) after completion of service described in subparagraph (A), is discharged or released from active duty in the Armed Forces for a service-connected disability.

(3) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 30 months, but less than 36 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 36 months; or

(ii) before completion of service on active duty of an aggregate of 36 months, is discharged or released from active duty as described in subsection (c).

(4) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 24 months, but less than 30 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 30 months; or

(ii) before completion of service on active duty of an aggregate of 30 months, is discharged or released from active duty as described in subsection (c).

(5) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 18 months, but less than 24 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 24 months; or

(ii) before completion of service on active duty of an aggregate of 24 months, is discharged or released from active duty as described in subsection (c).

(6) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 12 months, but less than 18 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 18 months; or

(ii) before completion of service on active duty of an aggregate of 18 months, is discharged or released from active duty as described in subsection (c).

(7) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 6 months, but less than 12 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 12 months; or

(ii) before completion of service on active duty of an aggregate of 12 months, is discharged or released from active duty as described in subsection (c).

(8) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 90 days, but less than 6 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 6 months; or

(ii) before completion of service on active duty of an aggregate of 6 months, is discharged or released from active duty as described in subsection (c).

(c) COVERED DISCHARGES AND RELEASES.—A discharge or release from active duty of an individual described in this subsection is a discharge or release as follows:

(1) A discharge from active duty in the Armed Forces with an honorable discharge.

(2) A release after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service and placement on the retired list, transfer to the Fleet Reserve or Fleet Marine Corps Reserve, or placement on the temporary disability retired list.

(3) A release from active duty in the Armed Forces for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

(4) A discharge or release from active duty in the Armed Forces for—

(A) a medical condition which preexisted the service of the individual as described in the applicable paragraph of subsection (b) and which the Secretary determines is not service-connected;

(B) hardship; or

(C) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense.

(d) PROHIBITION ON TREATMENT OF CERTAIN SERVICE AS PERIOD OF ACTIVE DUTY.—The following periods of service shall not be considered a part of the period of active duty on which an individual's entitlement to educational assistance under this chapter is based:

(1) A period of service on active duty of an officer pursuant to an agreement under section 2107(b) of title 10.

(2) A period of service on active duty of an officer pursuant to an agreement under section 4348, 6959, or 9348 of title 10.

(3) A period of service that is terminated because of a defective enlistment and induction based on—

(A) the individual's being a minor for purposes of service in the Armed Forces;

(B) an erroneous enlistment or induction; or

(C) a defective enlistment agreement.

(e) TREATMENT OF INDIVIDUALS ENTITLED UNDER MULTIPLE PROVISIONS.—In the event an individual entitled to educational assistance under this chapter is entitled by reason of both paragraphs (4) and (5) of subsection (b), the individual shall be treated as being entitled to educational assistance under this chapter by reason of paragraph (5) of such subsection.

§ 3312. Educational assistance: duration

(a) IN GENERAL.—Subject to section 3695 of this title and except as provided in subsections (b) and (c), an individual entitled to educational assistance under this chapter is entitled to a number of months of educational assistance under section 3313 of this title equal to 36 months.

(b) CONTINUING RECEIPT.—The receipt of educational assistance under section 3313 of this title by an individual entitled to educational assistance under this chapter is subject to the provisions of section 3321(b)(2) of this title.

(c) DISCONTINUATION OF EDUCATION FOR ACTIVE DUTY.—(1) Any payment of educational assistance described in paragraph (2) shall not—

(A) be charged against any entitlement to educational assistance of the individual concerned under this chapter; or

(B) be counted against the aggregate period for which section 3695 of this title limits the individual's receipt of educational assistance under this chapter.

(2) Subject to paragraph (3), the payment of educational assistance described in this paragraph is the payment of such assistance to an individual for pursuit of a course or courses under this chapter if the Secretary finds that the individual—

(A)(i) in the case of an individual not serving on active duty, had to discontinue such course pursuit as a result of being called or ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10; or

(ii) in the case of an individual serving on active duty, had to discontinue such course pursuit as a result of being ordered to a new duty location or assignment or to perform an increased amount of work; and

(B) failed to receive credit or lost training time toward completion of the individual's approved education, professional, or vocational objective as a result of having to discontinue, as described in subparagraph (A), the individual's course pursuit.

(3) The period for which, by reason of this subsection, educational assistance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall not exceed the portion of the period of enrollment in the course or courses from which the individual failed to receive credit or with respect to which the individual lost training time, as determined under paragraph (2)(B).

§ 3313. Educational assistance: amount; payment

(a) PAYMENT.—The Secretary shall pay to each individual entitled to educational assistance under this chapter who is pursuing an approved program of education (other than a program covered by subsections (e) and (f)) the amounts specified in subsection (c) to meet the expenses of such individual's subsistence, tuition, fees, and other educational costs for pursuit of such program of education.

(b) APPROVED PROGRAMS OF EDUCATION.—A program of education is an approved program of education for purposes of this chapter if the program of education is offered by an institution of higher learning (as that term is defined in section 3452(f) of this title) and is approved for purposes of chapter 30 of this title (including approval by the State approving agency concerned).

(c) AMOUNT OF EDUCATIONAL ASSISTANCE.—The amounts payable under this subsection for pursuit of an approved program of education are amounts as follows:

(1) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(1) or 3311(b)(2) of this title, amounts as follows:

(A) An amount equal to the established charges for the program of education, except that the amount payable under this subparagraph may not exceed the maximum amount of established charges regularly charged in-State students for full-time pursuit of approved programs of education for undergraduates by the public institution of higher education offering approved programs of education for undergraduates in the State in which the individual is enrolled that has the highest rate of regularly-charged established charges for such programs of education among all public institutions of higher education in such State offering such programs of education.

(B) A monthly stipend in an amount as follows:

(i) For each month the individual pursues the program of education, other than a program of education offered through distance learning, a monthly housing stipend amount equal to the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E–5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution of higher education at which the individual is enrolled.

(ii) For the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational costs with respect to such quarter, semester, or term in the amount equal to—

(I) $1,000, multiplied by

(II) the fraction which is the portion of a complete academic year under the program of education that such quarter, semester, or term constitutes.

(2) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(3) of this title, amounts equal to 90 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(3) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(4) of this title, amounts equal to 80 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(4) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(5) of this title, amounts equal to 70 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(5) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(6) of this title, amounts equal to 60 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(6) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(7) of this title, amounts equal to 50 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(7) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(8) of this title, amounts equal to 40 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(d) FREQUENCY OF PAYMENT.—(1) Payment of the amounts payable under subsection (c)(1)(A), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

(2) Payment of the amount payable under subsection (c)(1)(B), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made on a monthly basis.

(3) The Secretary shall prescribe in regulations methods for determining the number of months (including fractions thereof) of entitlement of an individual to educational assistance this chapter that are chargeable under this chapter for an advance payment of amounts under paragraphs (1) and (2) for pursuit of a program of education on a quarter, semester, term, or other basis.

(e) PROGRAMS OF EDUCATION PURSUED ON ACTIVE DUTY.—(1) Educational assistance is payable under this chapter for pursuit of an approved program of education while on active duty.

(2) The amount of educational assistance payable under this chapter to an individual pursuing a program of education while on active duty is the lesser of—

(A) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

(B) the amount of the charges of the educational institution as elected by the individual in the manner specified in section 3014(b)(1) of this title.

(3) Payment of the amount payable under paragraph (2) for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

(4) For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at the rate of one month for each such month.

(f) PROGRAMS OF EDUCATION PURSUED ON HALF-TIME BASIS OR LESS.—(1) Educational assistance is payable under this chapter for pursuit of an approved program of education on half-time basis or less.

(2) The educational assistance payable under this chapter to an individual pursuing a program of education on half-time basis or less is the amounts as follows:

(A) The amount equal to the lesser of—

(i) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

(ii) the maximum amount that would be payable to the individual for the program of education under paragraph (1)(A) of subsection (c), or under the provisions of paragraphs (2) through (7) of subsection (c) applicable to the individual, for the program of education if the individual were entitled to amounts for the program of education under subsection (c) rather than this subsection.

(B) A stipend in an amount equal to the amount of the appropriately reduced amount of the lump sum amount for books, supplies, equipment, and other educational costs otherwise payable to the individual under subsection (c).

(3) Payment of the amounts payable to an individual under paragraph (2) for pursuit of a program of education on half-time basis or less shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

(4) For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at a percentage of a month equal to—

(A) the number of course hours borne by the individual in pursuit of the program of education involved, divided by

(B) the number of course hours for full-time pursuit of such program of education.

(g) PAYMENT OF ESTABLISHED CHARGES TO EDUCATIONAL INSTITUTIONS.—Amounts payable under subsections (c)(1)(A) (and of similar amounts payable under paragraphs (2) through (7) of subsection (c)), (e)(2) and (f)(2)(A) shall be paid directly to the educational institution concerned.

(h) ESTABLISHED CHARGES DEFINED.—(1) In this section, the term 'established charges', in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay.

(2) Established charges shall be determined for purposes of this subsection on the following basis:

(A) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

(B) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

§ 3314. Tutorial assistance

(a) IN GENERAL.—Subject to subsection (b), an individual entitled to educational assistance under this chapter shall also be entitled to benefits provided an eligible veteran under section 3492 of this title.

(b) CONDITIONS.—(1) The provision of benefits under subsection (a) shall be subject to the conditions applicable to an eligible veteran under section 3492 of this title.

(2) In addition to the conditions specified in paragraph (1), benefits may not be provided to an individual under subsection (a) unless the professor or other individual teaching, leading, or giving the course for which such benefits are provided certifies that—

(A) such benefits are essential to correct a deficiency of the individual in such course; and

(B) such course is required as a part of, or is prerequisite or indispensable to the satisfactory pursuit of, an approved program of education.

(c) AMOUNT.—(1) The amount of benefits described in subsection (a) that are payable under this section may not exceed $100 per month, for a maximum of 12 months, or until a maximum of $1,200 is utilized.

(2) The amount provided an individual under this subsection is in addition to the amounts of educational assistance paid the individual under section 3313 of this title.

(d) NO CHARGE AGAINST ENTITLEMENT.—Any benefits provided an individual under subsection (a) are in addition to any other educational assistance benefits provided the individual under this chapter.

§ 3315. Licensure and certification tests

(a) IN GENERAL.—An individual entitled to educational assistance under this chapter shall also be entitled to payment for one licensing or certification test described in section 3452(b) of this title.

(b) LIMITATION ON AMOUNT.—The amount payable under subsection (a) for a licensing or certification test may not exceed the lesser of—

(1) $2,000; or

(2) the fee charged for the test.

(c) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under subsection (a) is in addition to any other educational assistance benefits provided the individual under this chapter.

§ 3316. Supplemental educational assistance: members with critical skills or specialty; members serving additional service

(a) INCREASED ASSISTANCE FOR MEMBERS WITH CRITICAL SKILLS OR SPECIALTY.—(1) In the case of an individual who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit or, in the case of critical units, retain personnel, the Secretary concerned may increase the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7) of such section (as applicable).

(2) The amount of the increase in educational assistance authorized by paragraph (1) may not exceed the amount equal to the monthly amount of increased basic educational assistance providable under section 3015(d)(1) of this title at the time of the increase under paragraph (1).

(b) SUPPLEMENTAL ASSISTANCE FOR ADDITIONAL SERVICE.—(1) The Secretary concerned may provide for the payment to an individual entitled to educational assistance under this chapter of supplemental educational assistance for additional service authorized by subchapter III of chapter 30 of this title. The amount so payable shall be payable as an increase in the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7) of such section (as applicable).

(2) Eligibility for supplement educational assistance under this subsection shall be determined in accordance with the provisions of subchapter III of chapter 30 of this title, except that any reference in such provisions to eligibility for basic educational assistance under a provision of subchapter II of chapter 30 of this title shall be treated as a reference to eligibility for educational assistance under the appropriate provision of this chapter.

(3) The amount of supplemental educational assistance payable under this subsection shall be the amount equal to the monthly amount of supplemental educational payable under section 3022 of this title.

(c) REGULATIONS.—The Secretaries concerned shall administer this section in accordance with such regulations as the Secretary of Defense shall prescribe.

§ 3317. Public-private contributions for additional educational assistance

(a) ESTABLISHMENT OF PROGRAM.—In instances where the educational assistance provided pursuant to section 3313(c)(1)(A) does not cover the full cost of established charges (as specified in section 3313 of this title), the Secretary shall carry out a program under which colleges and universities can, voluntarily, enter into an agreement with the Secretary to cover a portion of those established charges not otherwise covered under section 3313(c)(1)(A), which contributions shall be matched by equivalent contributions toward such costs by the Secretary. The program shall only apply to covered individuals described in paragraphs (1) and (2) of section 3311(b).

(b) DESIGNATION OF PROGRAM.—The program under this section shall be known as the 'Yellow Ribbon G.I. Education Enhancement Program'.

(c) AGREEMENTS.—The Secretary shall enter into an agreement with each college or university seeking to participate in the program under this section. Each agreement shall specify the following:

(1) The manner (whether by direct grant, scholarship, or otherwise) of the contributions to be made by the college or university concerned.

(2) The maximum amount of the contribution to be made by the college or university concerned with respect to any particular individual in any given academic year.

(3) The maximum number of individuals for whom the college or university concerned will make contributions in any given academic year.

(4) Such other matters as the Secretary and the college or university concerned jointly consider appropriate.

(d) MATCHING CONTRIBUTIONS.—(1) In instances where the educational assistance provided an individual under section 3313(c)(1)(A) of this title does not cover the full cost of tuition and mandatory fees at a college or university, the Secretary shall provide up to 50 percent of the remaining costs for tuition and mandatory fees if the college or university voluntarily enters into an agreement with the Secretary to match an equal percentage of any of the remaining costs for such tuition and fees.

(2) Amounts available to the Secretary under section 3324(b) of this title for payment of the costs of this chapter shall be available to the Secretary for purposes of paragraph (1).

(e) OUTREACH.—The Secretary shall make available on the Internet website of the Department available to the public a current list of the colleges and universities participating in the program under this section. The list shall specify, for each college or university so listed, appropriate information on the agreement between

the Secretary and such college or university under subsection (c).

§ 3318. Additional assistance: relocation or travel assistance for individual relocating or traveling significant distance for pursuit of a program of education

(a) ADDITIONAL ASSISTANCE.—Each individual described in subsection (b) shall be paid additional assistance under this section in the amount of $500.

(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual entitled to educational assistance under this chapter—

(1) who resides in a highly rural area (as determined by the Bureau of the Census); and

(2) who—

(A) physically relocates a distance of at least 500 miles in order to pursue a program of education for which the individual utilizes educational assistance under this chapter; or

(B) travels by air to physically attend an institution of higher education for pursuit of such a program of education because the individual cannot travel to such institution by automobile or other established form of transportation due to an absence of road or other infrastructure.

(c) PROOF OF RESIDENCE.—For purposes of subsection (b)(1), an individual may demonstrate the individual's place of residence utilizing any of the following:

(1) DD Form 214, Certification of Release or Discharge from Active Duty.

(2) The most recent Federal income tax return.

(3) Such other evidence as the Secretary shall prescribe for purposes of this section.

(d) SINGLE PAYMENT OF ASSISTANCE.—An individual is entitled to only one payment of additional assistance under this section.

(e) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under this section is in addition to any other educational assistance benefits provided the individual under this chapter.

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SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

§ 3321. Time limitation for use of and eligibility for entitlement

(a) IN GENERAL.—Except as provided in this section, the period during which an individual entitled to educational assistance under this chapter may use such individual's entitlement expires at the end of the 15-year period beginning on the date of such individual's last discharge or release from active duty.

(b) EXCEPTIONS.—(1) Subsections (b), (c), and (d) of section 3031 of this title shall apply with respect to the running of the 15-year period described in subsection (a) of this section in the same manner as such subsections apply under section 3031 of this title with respect to the running of the 10-year period described in section 3031(a) of this title.

(2) Section 3031(f) of this title shall apply with respect to the termination of an individual's entitlement to educational assistance under this chapter in the same manner as such section applies to the termination of an individual's entitlement to educational assistance under chapter 30 of this title, except that, in the administration of such section for purposes of this chapter, the reference to section 3013 of this title shall be deemed to be a reference to 3312 of this title.

(3) For purposes of subsection (a), an individual's last discharge or release from active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service, unless the individual is discharged or released as described in section 3311(b)(2) of this title.

§ 3322. Bar to duplication of educational assistance benefits

(a) IN GENERAL.—An individual entitled to educational assistance under this chapter who is also eligible for educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980 (Public Law 96–449; 5 U.S.C. 5561 note) may not receive assistance under two or more such programs concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which chapter or provisions to receive educational assistance.

(b) INAPPLICABILITY OF SERVICE TREATED UNDER EDUCATIONAL LOAN REPAYMENT PROGRAMS.—A period of service counted for purposes of repayment of an education loan under chapter 109 of title 10 may not be counted as a period of service for entitlement to educational assistance under this chapter.

(c) SERVICE IN SELECTED RESERVE.—An individual who serves in the Selected Reserve may receive credit for such service under only one of this chapter, chapter 30 of this title, and chapters 1606 and 1607 of title 10, and shall elect (in such form and manner as the Secretary may prescribe) under which chapter such service is to be credited.

(d) ADDITIONAL COORDINATION MATTERS.—In the case of an individual entitled to educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980, or making contributions toward entitlement to educational assistance under chapter 30 of this title, as of August 1, 2009, coordination of entitlement to educational assistance under this chapter, on the one hand, and such chapters or provisions, on the other, shall be governed by the provisions of section ____03(c) of the Post-9/11 Veterans Educational Assistance Act of 2008.

§ 3323. Administration

(a) IN GENERAL.—(1) Except as otherwise provided in this chapter, the provisions specified in section 3034(a)(1) of this title shall apply to the provision of educational assistance under this chapter.

(2) In applying the provisions referred to in paragraph (1) to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such provisions to the term 'eligible veteran' shall be deemed to refer to an individual entitled to educational assistance under this chapter.

(3) In applying section 3474 of this title to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such section 3474 to the term 'educational assistance allowance' shall be deemed to refer to educational assistance payable under section 3313 of this title.

(4) In applying section 3482(g) of this title to an individual entitled to educational assistance under this chapter for purposes of this section—

(A) the first reference to the term 'educational assistance allowance' in such section 3482(g) shall be deemed to refer to educational assistance payable under section 3313 of this title; and

(B) the first sentence of paragraph (1) of such section 3482(g) shall be applied as if such sentence ended with 'equipment'.

(b) INFORMATION ON BENEFITS.—(1) The Secretary of Veterans Affairs shall provide the information described in paragraph (2) to each member of the Armed Forces at such times as the Secretary of Veterans Affairs and the Secretary of Defense shall jointly prescribe in regulations.

(2) The information described in this paragraph is information on benefits, limitations, procedures, eligibility requirements (including time-in-service requirements), and other important aspects of educational assistance under this chapter, including application forms for such assistance under section 5102 of this title.

(3) The Secretary of Veterans Affairs shall furnish the information and forms described in paragraph (2), and other educational materials on educational assistance under this chapter, to educational institutions, training establishments, military education personnel, and such other persons and entities as the Secretary considers appropriate.

(c) REGULATIONS.—(1) The Secretary shall prescribe regulations for the administration of this chapter.

(2) Any regulations prescribed by the Secretary of Defense for purposes of this chapter shall apply uniformly across the Armed Forces.

§ 3324. Allocation of administration and costs

(a) ADMINISTRATION.—Except as otherwise provided in this chapter, the Secretary shall administer the provision of educational assistance under this chapter.

(b) COSTS.—Payments for entitlement to educational assistance earned under this chapter shall be made from funds appropriated to, or otherwise made available to, the Department of Veterans Affairs for the payment of readjustment benefits.

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CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

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SUBCHAPTER IV—PAYMENTS TO ELIGIBLE VETERANS; VETERAN-STUDENT SERVICES

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§ 3485. Work-study allowance

(a)(1) * * *

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(b) Notwithstanding any other provision of law, the Secretary shall, subject to the provisions of subsection (e) of this section, utilize, in connection with the activities specified in subsection (a)(1) of this section, the service of individuals who are pursuing programs of rehabilitation, education, or training under chapter 30, 31, 32, *33,* or 34 of this title or chapter 106 of title 10, at a rate equal to at least three-quarters of that required of a full-time student. In carrying out this section, the Secretary, wherever feasible, shall give priority to veterans with disabilities rated at 30 percent or more for purposes of chapter 11 of this title. In the event an individual ceases to be at least a three-quarter-time student before completing such agreement, the individual may, with the approval of the Secretary, be permitted to complete such agreement.

* * * * *

(e)(1) Subject to paragraph (2) of this subsection, the Secretary may, notwithstanding any other provision of law, enter into an agreement with an individual under this section, or a modification of such an agreement, whereby the individual agrees to perform services of the kind described in clauses (A) through (E) of subsection (a)(1) of this section and agrees that the Secretary shall, in lieu of paying the work-study allowance payable for such services, as provided in subsection (a) of this section, deduct the amount of the allowance from the amount which the individual has been determined to be indebted to the United States by virtue of such individual's participation in a benefits program under this chapter, chapter 30, 31, 32, *33,* 35, or 36 of this title, or chapter 106 of title 10 (other than an indebtedness arising from a refund penalty imposed under section 2135 of such title).

* * * * *

CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

* * * * *

SUBCHAPTER I—STATE APPROVING AGENCIES

* * * * *

§ 3674. Reimbursement of expenses

(a)(1) * * *

* * * * *

(4) The total amount made available under this section for any fiscal year [may not exceed $13,000,000 or, for each of fiscal years 2001 and 2002, $14,000,000, for fiscal year 2003, $14,000,000, for fiscal year 2004, $18,000,000, for fiscal year 2005, $18,000,000, for fiscal year 2006, $19,000,000, and for fiscal year 2007, $19,000,000. For any fiscal year in which the total amount that would be made available under this section would exceed the amount applicable to that fiscal year under the preceding sentence except for the provisions of this paragraph, the Secretary shall provide that each agency shall receive the same percentage of the amount applicable to that fiscal year under the preceding sentence as the agency would have received of the total amount that would have been made available without the limitation of this paragraph] *shall be $19,000,000*.

* * * * *

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

* * * * *

§ 3688. Measurement of courses

(a) For the purposes of this chapter and chapters 34 and 35 of this title—

* * * * *

(b) The Secretary shall define part-time training in the case of the types of courses referred to in subsection (a), and shall define full-time and part-time training in the case of all other types of courses pursued under this chapter, chapter 30, 32, *33*, or 35 of this title, or chapter 106 of title 10.

* * * * *

§ 3689. Approval requirements for licensing and certification testing

(a) IN GENERAL.—

(1) No payment may be made for a licensing or certification test described in section 3452(b) or 3501(a)(5) of this title unless the Secretary determines that the requirements of this section have been met with respect to such test and the organization or entity offering the test. The requirements of approval for tests and organizations or entities offering tests shall be in accordance with the provisions of this chapter and chapters 30, 32, *33*, 34, and 35 of this title and with regulations prescribed by the Secretary to carry out this section.

* * * * *

(c) REQUIREMENTS FOR ORGANIZATIONS OR ENTITIES OFFERING TESTS.—

(1) Each organization or entity that is not an entity of the United States, a State, or political subdivision of a State, that offers a licensing or certification test for which payment may be made under chapter 30, 32, *33*, 34, or 35 of this title and that meets the following requirements, shall be approved by the Secretary to offer such test:

(A) * * *

* * * * *

(G) The organization or entity furnishes to the Secretary such information with respect to the test as the Secretary requires to determine whether payment may be made for the test under chapter 30, 32, *33*, 34, or 35 of this title, including personal identifying information, fee payment, and test results. Such information shall be furnished in the form prescribed by the Secretary.

* * * * *

(d) ADMINISTRATION.—Except as otherwise specifically provided in this section or chapter 30, 32, *33*, 34, or 35 of this title, in implementing this section and making payment under any such chapter for a licensing or certification test, the test is deemed to be a ''course'' and the organization or entity that offers such test is deemed to be an ''institution'' or ''educational institution'', respectively, as those terms are applied under and for purposes of sections 3671, 3673, 3674, 3678, 3679, 3681, 3682, 3683, 3685, 3690, and 3696 of this title.

(e) PROFESSIONAL CERTIFICATION AND LICENSURE ADVISORY COMMITTEE.—

(1) There is established within the Department a committee to be known as the Professional Certification and Licensure Advisory Committee (hereinafter in this section referred to as the ''Committee'').

(2) The Committee shall advise the Secretary with respect to the requirements of organizations or entities offering licensing and certification tests to individuals for which payment for such tests may be made under chapter 30, 32, *33*, 34, or 35 of this title, and such other related issues as the Committee determines to be appropriate.

* * * * *

§ 3690. Overcharges by educational institutions; discontinuance of allowances; examination of records; false or misleading statements

OVERCHARGES BY EDUCATIONAL INSTITUTIONS

(a) If the Secretary finds that an educational institution has—

* * * * *

(b)(1) * * *

* * * * *

(3)(A) The Secretary may suspend educational assistance to eligible veterans and eligible persons already enrolled, and may disapprove the enrollment or reenrollment of any eligible veteran or eligible person, in any course as to which the Secretary has evidence showing a substantial pattern of eligible veterans or eligible persons, or both, who are receiving such assistance by virtue of their enrollment in such course but who are not entitled to such assistance because (i) the course approval requirements of this chapter are not being met, or (ii) the educational institution offering such course has violated one or more of the recordkeeping or reporting requirements of this chapter or chapter 30, 32, *33*, 34, or 35 of this title.

* * * * *

§ 3692. Advisory committee

(a) There shall be a Veterans' Advisory Committee on Education formed by the Secretary which shall be composed of persons who are eminent in their respective fields of education, labor, and management and of representatives of institutions and establishments furnishing education to eligible veterans or persons enrolled under chapter 30, 32, *33*, or 35 of this title and chapter 1606 of title 10. The committee shall also, to the maximum extent practicable, include veterans representative of World War II, the Korean conflict era, the post-Korean conflict era, the Vietnam era, the post-Vietnam era, and the Persian Gulf War. The Assistant Secretary of Education for Postsecondary Education (or such other comparable official of the Department of Education as the Secretary of Education may designate) and the Assistant Secretary of Labor for Veterans' Employment and Training shall be ex officio members of the advisory committee.

(b) The Secretary shall consult with and seek the advice of the committee from time to time with respect to the administration of this chapter, chapters 30, 32, *33*, and 35 of this title, and chapter 1606 of title 10. The committee may make such reports and recommendations as it considers desirable to the Secretary and the Congress.

(c) The committee shall remain in existence until December 31, 2009.

* * * * *

§ 3695. Limitation on period of assistance under two or more programs

(a) * * *

(1) * * *

* * * * *

[(4) Chapters 30, 32, 34, 35, and 36 of this title, and the former chapter 33.]

(4) Chapters 30, 32, 33, 34, 35, and 36 of this title.

* * * * *

§ 3697. Funding of contract educational and vocational counseling

(a) Subject to subsection (b) of this section, educational or vocational counseling services obtained by the Department of Veterans Affairs by contract and provided to an individual under section 3697A of this title or to an individual applying for or receiving benefits under section 1524 or chapter 30, 32, *33*, 34, or 35 of this title, or chapter 106 of title 10, shall be paid for out of funds appropriated, or otherwise available, to the Department of Veterans Affairs for payment of readjustment benefits.

* * * * *

§ 3697A. Educational and vocational counseling

(a) * * *

* * * * *

(b) For the purposes of this section, the term ''individual'' means an individual who—

(1) is eligible for educational assistance under chapter 30, 31, [or 32] *32, or 33* of this title or chapter 106 or 107 of title 10;

* * * * *

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

* * * * *

CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

Sec.
5301. Nonassignability and exempt status of benefits.
5302. Waiver of recovery of claims by the United States
5302A. Collection of indebtedness: certain debts of members of the Armed Forces and veterans who die of injury incurred or aggravated in the line of duty in a combat zone.

* * * * *

§ 5302. * * *

* * * * *

§ 5302A. Collection of indebtedness: certain debts of members of the Armed Forces and veterans who die of injury incurred or aggravated in the line of duty in a combat zone

(a) LIMITATION ON AUTHORITY.—The Secretary may not collect all or any part of an amount owed to the United States by a member of the Armed Forces or veteran described in subsection (b) under any program under the laws administered by the Secretary, other than a program referred to in subsection (c), if the Secretary determines that termination of collection is in the best interest of the United States.

(b) COVERED INDIVIDUALS.—A member of the Armed Forces or veteran described in this subsection is any member or veteran who dies as a result of an injury incurred or aggravated in the line of duty while serving in a theater of combat operations (as determined by the Secretary in consultation with the Secretary of Defense) in a war or in combat against a hostile force during a period of hostilities (as that term is defined in section 1712A(a)(2)(B) of this title) after September 11, 2001.

(c) INAPPLICABILITY TO HOUSING AND SMALL BUSINESS BENEFIT PROGRAMS.—The limitation on authority in subsection (a) shall not apply to any amounts owed the United States under any program carried out under chapter 37 of this title.

* * * * *

TITLE 42—THE PUBLIC HEALTH AND WELFARE

* * * * *

CHAPTER 6A—PUBLIC HEALTH SERVICE

* * * * *

SUBCHAPTER VI—NURSING WORKFORCE DEVELOPMENT

* * * * *

PART D—STRENGTHENING CAPACITY FOR BASIC NURSE EDUCATION AND PRACTICE

* * * * *

§ 296p. Nurse education, practice, and retention grants

(a) * * *

* * * * *

SEC. 832. CAPITATION GRANTS.

(a) IN GENERAL.—For the purpose described in subsection (b), the Secretary, acting through the Health Resources and Services Administration, shall award a grant each fiscal year in an amount determined in accordance with subsection (c) to each eligible school of nursing that submits an application in accordance with this section.

(b) PURPOSE.—A funding agreement for a grant under this section is that the eligible school of nursing involved will expend the grant to increase the number of nursing faculty and students at the school, including by hiring new faculty, retaining current faculty, purchasing educational equipment and audiovisual laboratories, enhancing clinical laboratories, repairing and expanding infrastructure, or recruiting students.

(c) GRANT COMPUTATION.—

(1) AMOUNT PER STUDENT.—Subject to paragraph (2), the amount of a grant to an eligible school of nursing under this section for a fiscal year shall be the total of the following:

(A) $1,800 for each full-time or part-time student who is enrolled at the school in a graduate program in nursing that—

(i) leads to a master's degree, a doctoral degree, or an equivalent degree; and

(ii) prepares individuals to serve as faculty through additional course work in education and ensuring competency in an advanced practice area.

(B) $1,405 for each full-time or part-time student who—

(i) is enrolled at the school in a program in nursing leading to a bachelor of science degree, a bachelor of nursing degree, a graduate degree in nursing if such program does not meet the requirements of subparagraph (A), or an equivalent degree; and

(ii) has not more than 3 years of academic credits remaining in the program.

(C) $966 for each full-time or part-time student who is enrolled at the school in a program in nursing leading to an associate degree in nursing or an equivalent degree.

(2) LIMITATION.—In calculating the amount of a grant to a school under paragraph (1), the Secretary may not make a payment with respect to a particular student—

(A) for more than 2 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a master's degree or an equivalent degree;

(B) for more than 4 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a doctoral degree or an equivalent degree;

(C) for more than 3 fiscal years in the case of a student described in paragraph (1)(B); or

(D) for more than 2 fiscal years in the case of a student described in paragraph (1)(C).

(d) ELIGIBILITY.—In this section, the term 'eligible school of nursing' means a school of nursing that—

(1) is accredited by a nursing accrediting agency recognized by the Secretary of Education;

(2) has a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent for each of the 3 academic years preceding submission of the grant application; and

(3) has a graduation rate (based on the number of students in a class who graduate relative to, for a baccalaureate program, the number of students who were enrolled in the class at the beginning of junior year or, for an associate degree program, the number of students who were enrolled in the class at the end of the first year) of not less than 80 percent for each of the 3 academic years preceding submission of the grant application.

(e) REQUIREMENTS.—The Secretary may award a grant under this section to an eligible school of nursing only if the school gives assurances satisfactory to the Secretary that, for each academic year for which the grant is awarded, the school will comply with the following:

(1) The school will maintain a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent.

(2) The school will maintain a graduation rate (as described in subsection (d)(3)) of not less than 80 percent.

(3)(A) Subject to subparagraphs (B) and (C), the first-year enrollment of full-time nursing students in the school will exceed such enrollment for the preceding academic year by 5 percent or 5 students, whichever is greater.

(B) Subparagraph (A) shall not apply to the first academic year for which a school receives a grant under this section.

(C) With respect to any academic year, the Secretary may waive application of subparagraph (A) if—

(i) the physical facilities at the school involved limit the school from enrolling additional students; or

(ii) the school has increased enrollment in the school (as described in subparagraph (A)) for each of the 2 preceding academic years.

(4) Not later than 1 year after receiving a grant under this section, the school will formulate and implement a plan to accomplish at least 2 of the following:

(A) Establishing or significantly expanding an accelerated baccalaureate degree nursing program designed to graduate new nurses in 12 to 18 months.

(B) Establishing cooperative intradisciplinary education among schools of nursing with a view toward shared use of technological resources, including information technology.

(C) Establishing cooperative interdisciplinary training between schools of nursing and schools of allied health, medicine, dentistry, osteopathy, optometry, podiatry, pharmacy, public health, or veterinary medicine, including training for the use of the interdisciplinary team approach to the delivery of health services.

(D) Integrating core competencies on evidence-based practice, quality improvements, and patient-centered care.

(E) Increasing admissions, enrollment, and retention of qualified individuals who are financially disadvantaged.

(F) Increasing enrollment of minority and diverse student populations.

(G) Increasing enrollment of new graduate baccalaureate nursing students in graduate programs that educate nurse faculty members.

(H) Developing post-baccalaureate residency programs to prepare nurses for practice in specialty areas where nursing shortages are most severe.

(I) Increasing integration of geriatric content into the core curriculum.

(J) Partnering with economically disadvantaged communities to provide nursing education.

(K) Expanding the ability of nurse managed health centers to provide clinical education training sites to nursing students.

(5) The school will submit an annual report to the Secretary that includes updated information on the school with respect to student enrollment, student retention, graduation rates, passage rates on the National Council Licensure Examination for Registered Nurses, the number of graduates employed as nursing faculty or nursing care providers within 12 months of graduation, and the number of students who are accepted into graduate programs for further nursing education.

(6) The school will allow the Secretary to make on-site inspections, and will comply with the Secretary's requests for information, to determine the extent to which the school is complying with the requirements of this section.

(f) REPORTS TO CONGRESS.—The Secretary shall evaluate the results of grants under this section and submit to Congress—

(1) not later than 18 months after the date of the enactment of this section, an interim report on such results; and

(2) not later than September 30, 2010, a final report on such results.

(g) APPLICATION.—An eligible school of nursing seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

(h) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts in the Domestic Nursing Enhancement Account, established under section 833, there are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 833. DOMESTIC NURSING ENHANCEMENT ACCOUNT.

(a) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account which shall be known as the ''Domestic Nursing Enhancement Account.'' Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under section 106(f) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note). Nothing in this subsection shall prohibit the depositing of other moneys into the account established under this section.

(b) USE OF FUNDS.—Amounts collected under section 106(f) of the American Competitiveness in the Twenty-first Century Act of 2000, and deposited into the account established under subsection (a) shall be used by the Secretary of Health and Human Services to carry out section 832. Such amounts shall be available for obligation only to the extent, and in the amount, provided in advance in appropriations Acts. Such amounts are authorized to remain available until expended.

* * * * *

CHAPTER 7—SOCIAL SECURITY

SUBCHAPTER II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

§ 408. Penalties

(a) In general

* * * * *

(1) * * *

* * * * *

(e) Application of subsection (a)(6) and (7) to certain aliens

(1) Except as provided in paragraph (2), an alien—

(A) whose status is adjusted to that of lawful temporary resident under section 1160 or 1255a of title 8 or under section 902 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989,

(B) whose status is adjusted to that of permanent resident—

(i) under section 202 of the Immigration Reform and Control Act of 1986, or

(ii) pursuant to section 1259 of title 8, [or]

(C) who is granted special immigrant status under section 1101(a)(27)(I) of title 8, *or*

(D) who is granted emergency agricultural worker status under the Emergency Agriculture Relief Act of 2008,

shall not be subject to prosecution for any alleged conduct described in paragraph (6) or (7) of subsection (a) of this section if such conduct is alleged to have occurred prior to 60 days after November 5, [1990.] *1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted emergency agricultural worker status.*

* * * * *

§ 414. Insured status for purposes of old-age and survivors insurance benefits

For the purposes of this subchapter—

(a) * * *

(1) * * *

* * * * *

(d)(1) Except as provided in paragraph (2), for purposes of subsections (a) and (b), no quarter of coverage shall be credited for any calendar year beginning on or after January 1, 2004, with respect to an individual granted emergency agricultural worker status under section 8011 of the Emergency Agriculture Relief Act of 2008, unless the Commissioner of Social Security determines, on the basis of information provided to the Commissioner in accordance with an agreement under subsection (e) or otherwise, that the individual was authorized to be employed in the United States during such quarter.

(2) Paragraph (1) shall not apply to an individual who was assigned a social security account number before January 1, 2004.

(e) Not later than 180 days after the date of the enactment of this subsection, the Secretary of Homeland Security shall enter into an agreement with the Commissioner of Social Security to provide such information as the Commissioner determines necessary to carry out the limitation on crediting quarters of coverage under subsection (d).

§ 415. Computation of primary insurance amount

For the purposes of this subchapter—

(a) * * *

* * * * *

(e) CERTAIN WAGES AND SELF-EMPLOYMENT INCOME NOT TO BE COUNTED.—For the purposes of subsections (b) and (d) of this section—

(1) in computing an individual's average indexed monthly earnings or, in the case of an individual whose primary insurance amount is computed under subsection (a) of this section as in effect prior to January 1979, average monthly wage, there shall not be counted the excess over $3,600 in the case of any calendar year after 1950 and before 1955, the excess over $4,200 in the case of any calendar year after 1954 and before 1959, the excess over $4,800 in the case of any calendar year after 1958 and before 1966, the excess over $6,600 in the case of any calendar year after 1965 and before 1968, the excess over $7,800 in the case of any calendar year after 1967 and before 1972, the excess over $9,000 in the case of any calendar year after 1971 and before 1973, the excess over $10,800 in the case of any calendar year after 1972 and before 1974, the excess over $13,200 in the case of any calendar year after 1973 and before 1975, and the excess over an amount equal to the contribution and benefit base (as determined under section 430 of this title) in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective, (before the application, in the case of average indexed monthly earnings, of subsection (b)(3)(A) of this section) of (A) the wages paid to him in such year, plus (B) the self-employment income credited to such year (as determined under section 412 of this title); [and]

(2) if an individual's average indexed monthly earnings or, in the case of an individual whose primary insurance amount is computed under subsection (a) of this section as in effect prior to January 1979, average monthly wage, computed under subsection (b) of this section or for the purposes of subsection (d) of this section is not a multiple of $1, it shall be reduced to the next lower multiple of $1[.]*; and*

(3) in computing the average indexed monthly earnings of an individual, wages or self-employment income shall not be counted for any year for which no quarter of coverage may be credited to such individual pursuant to section 214(d).

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TITLE 49—TRANSPORTATION

* * * * *

SUBTITLE VII—AVIATION PROGRAMS

PART A—AIR COMMERCE AND SAFETY

* * * * *

SUBPART III—SAFETY

* * * * *

CHAPTER 443—INSURANCE

* * * * *

§ 44302. General authority

(a) * * *

* * * * *

(b) REIMBURSEMENT OF INSURANCE COST INCREASES.—

* * * * *

(f) EXTENSION OF POLICIES.—

(1) In general.—The Secretary shall extend through [August 31, 2008,] *August 31, 2009,* and may extend through [December 31, 2008,] *December 31, 2009,* the termination date of any insurance policy that the Department of Transportation issued to an air carrier under subsection (a) and that is in effect on the date of enactment of this subsection on no less favorable terms to the air carrier than existed on June 19, 2002; except that the Secretary shall amend the insurance policy, subject to such terms and conditions as the Secretary may prescribe, to add coverage for losses or injuries to aircraft hulls, passengers, and crew at the limits carried by air carriers for such losses and injuries as of such date of enactment and at an additional premium comparable to the premium charged for third-party casualty coverage under such policy.

* * * * *

§ 44303. Coverage

(a) * * *

* * * * *

(b) AIR CARRIER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.—For acts of terrorism committed on or to an air carrier during the period beginning on September 22, 2001, and ending on [December 31, 2008,] *December 31, 2009,* the Secretary may certify that the air carrier was a victim of an act of terrorism and in the Secretary's judgment, based on the Secretary's analysis and conclusions regarding the facts and circumstances of each case, shall not be responsible for losses suffered by third parties (as referred to in section 205.5(b)(1) of title 14, Code of Federal Regulations) that exceed $100,000,000, in the aggregate, for all claims by such parties arising out of such act. If the Secretary so certifies, the air carrier shall not be liable for an amount that exceeds $100,000,000, in the aggregate, for all claims by such parties arising out of such act, and the Government shall be responsible for any liability above such amount. No punitive damages may be awarded against an air carrier (or the Government taking responsibility for an air carrier under this subsection) under a cause of action arising out of such act. The Secretary may extend the provisions of this subsection to an aircraft manufacturer (as defined in section 44301) of the aircraft of the air carrier involved.

* * * * *

SOCIAL SECURITY ACT

* * * * *

TITLE XVIII—HEALTH INSURANCE FOR THE AGED AND DISABLED

* * * * *

§ 1848. * * *

(l) * * *

* * * * *

(1) * * *

* * * * *

(2) FUNDING.—

(A) AMOUNT AVAILABLE.—

(i) * * *

* * * * *

(III) For expenditures during 2013, an amount equal to [$4,960,000,000] *$3,940,000,000.*

(IV) For expenditures during 2014, an amount equal to $3,750,000,000.

(ii) LIMITATIONS ON EXPENDITURES.—

(I) * * *

* * * * *

(III) 2013.—The amount available for expenditures during 2013 shall only be available for an adjustment to the update of the conversion factor under subsection (d) for that year.

(IV) 2014.—The amount available for expenditures during 2014 shall only be available for an adjustment to the update of the conversion factor under subsection (d) for that year.''

(B) TIMELY OBLIGATION OF ALL AVAILABLE FUNDS FOR SERVICES.—The Secretary shall provide for expenditures from the Fund in a manner designed to provide (to the maximum extent feasible) for the obligation of the entire amount available for expenditures, after application of subparagraph (A)(ii), during—

(i) * * *

(ii) 2009 for payment with respect to physicians' services furnished during 2009; [and]

(iii) 2013 for payment with respect to physicians' services furnished during 2013[.]*; and*

(iv) 2014 for payment with respect to physicians' services furnished during 2014.

* * * * *

PART E—MISCELLANEOUS PROVISIONS

* * * * *

HEALTH CARE INFRASTRUCTURE IMPROVEMENT PROGRAM

* * * * *

SEC. 1897. * * *

* * * * *

(i) LIMITATION ON REVIEW.—There shall be no administrative or judicial review of any determination made by the Secretary under this section.

MEDICARE IMPROVEMENT FUND

SEC. 1898. (a) ESTABLISHMENT.—The Secretary shall establish under this title a Medicare Improvement Fund (in this section referred to as the ''Fund'') which shall be available to the Secretary to make improvements under the original fee-for-service program under parts A and B for individuals entitled to, or enrolled for, benefits under part A or enrolled under part B.

(b) FUNDING.—

(1) IN GENERAL.—There shall be available to the Fund, for expenditures from the Fund for services furnished during fiscal year 2014, $3,340,000,000.

(2) PAYMENT FROM TRUST FUNDS.—The amount specified under paragraph (1) shall be available to the Fund, as expenditures are made from the Fund, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines appropriate.

(3) FUNDING LIMITATION.—Amounts in the Fund shall be available in advance of appropriations but only if the total amount obligated from the Fund does not exceed the amount available to the Fund under paragraph (1). The Secretary may obligate funds from the Fund only if the Secretary determines (and the Chief Actuary of the Centers for Medicare & Medicaid Services and the appropriate budget officer certify) that there are available in the Fund sufficient amounts to cover all such obligations incurred consistent with the previous sentence.

* * * * *

LIMITATION ON CERTAIN PHYSICIAN REFERRALS

SEC. 1877. (a) PROHIBITION OF CERTAIN REFERRALS.—

* * * * *

(d) ADDITIONAL EXCEPTIONS RELATED ONLY TO OWNERSHIP OR INVESTMENT PROHIBITION.—The following, if not otherwise excepted under subsection (b), shall not be considered to be an ownership or investment interest described in subsection (a)(2)(A):

(1) HOSPITALS IN PUERTO RICO.—In the case of designated health services provided by a hospital located in Puerto Rico.

(2) RURAL PROVIDERS.—In the case of designated health services furnished in a rural area (as defined in section 1395ww(d)(2)(D) of this title) by an entity, if—

(A) substantially all of the designated health services furnished by the entity are furnished to individuals residing in such a rural area; **[**and**]**

(B) effective for the 18-month period beginning on December 8, 2003, the entity is not a specialty hospital (as defined in subsection (h)(7) of this section)**[**.**]***; and*

(C) in the case where the entity is a hospital, the hospital meets the requirements of paragraph (3)(D).

(3) HOSPITAL OWNERSHIP.—In the case of designated health services provided by a hospital (other than a hospital described in paragraph (1)) if—

(A) the referring physician is authorized to perform services at the hospital;

(B) effective for the 18-month period beginning on December 8, 2003, the hospital is not a specialty hospital (as defined in subsection (h)(7) of this section); **[**and**]**

(C) the ownership or investment interest is in the hospital itself (and not merely in a subdivision of the hospital)**[**.**]***; and*

(D) the hospital meets the requirements described in subsection (i)(1) not later than 18 months after the date of the enactment of this subparagraph.

* * * * *

(i) REQUIREMENTS FOR HOSPITALS TO QUALIFY FOR HOSPITAL EXCEPTION TO OWNERSHIP OR INVESTMENT PROHIBITION.—

(1) REQUIREMENTS DESCRIBED.—For purposes of subsection (d)(3)(D), the requirements described in this paragraph for a hospital are as follows:

(A) PROVIDER AGREEMENT.—The hospital had—

(i) physician ownership on September 1, 2008; and

(ii) a provider agreement under section 1866 in effect on such date.

(B) LIMITATION ON EXPANSION OF FACILITY CAPACITY.—Except as provided in paragraph (3), the number of operating rooms, procedure rooms, and beds of the hospital at any time on or after the date of the enactment of this subsection are no greater than the number of operating rooms, procedure rooms, and beds as of such date.

(C) PREVENTING CONFLICTS OF INTEREST.—

(i) The hospital submits to the Secretary an annual report containing a detailed description of—

(I) the identity of each physician owner and any other owners of the hospital; and

(II) the nature and extent of all ownership interests in the hospital.

(ii) The hospital has procedures in place to require that any referring physician owner discloses to the patient being referred, by a time that permits the patient to make a meaningful decision regarding the receipt of care, as determined by the Secretary—

(I) the ownership interest of such referring physician in the hospital; and

(II) if applicable, any such ownership interest of the treating physician.

(iii) The hospital does not condition any physician ownership interests either directly or indirectly on the physician owner making or influencing referrals to the hospital or otherwise generating business for the hospital.

(iv) The hospital discloses the fact that the hospital is partially owned by physicians—

(I) on any public website for the hospital; and

(II) in any public advertising for the hospital.

(D) ENSURING BONA FIDE INVESTMENT.—

(i) Physician owners in the aggregate do not own more than the greater of—

(I) 40 percent of the total value of the investment interests held in the hospital or in an entity whose assets include the hospital; or

(II) the percentage of such total value determined on the date of enactment of this subsection.

(ii) Any ownership or investment interests that the hospital offers to a physician owner are not offered on more favorable terms than the terms offered to a person who is not a physician owner.

(iii) The hospital (or any investors in the hospital) does not directly or indirectly provide loans or financing for any physician owner investments in the hospital.

(iv) The hospital (or any investors in the hospital) does not directly or indirectly guarantee a loan, make a payment toward a loan, or otherwise subsidize a loan, for any individual physician owner or group of physician owners that is related to acquiring any ownership interest in the hospital.

(v) Investment returns are distributed to each investor in the hospital in an amount that is directly proportional to the ownership interest of such investor in the hospital.

(vi) Physician owners do not receive, directly or indirectly, any guaranteed receipt of or right to purchase other business interests related to the hospital, including the purchase or lease of any property under the control of other investors in the hospital or located near the premises of the hospital.

(vii) The hospital does not offer a physician owner the opportunity to purchase or lease any property under the control of the hospital or any other investor in the hospital on more favorable terms than the terms offered to an individual who is not a physician owner.

(E) PATIENT SAFETY.—

(i) Insofar as the hospital admits a patient and does not have any physician available on the premises to provide services during all hours in which the hospital is providing services to such patient, before admitting the patient—

(I) the hospital discloses such fact to a patient; and

(II) following such disclosure, the hospital receives from the patient a signed acknowledgment that the patient understands such fact.

(ii) The hospital has the capacity to—

(I) provide assessment and initial treatment for patients; and

(II) refer and transfer patients to hospitals with the capability to treat the needs of the patient involved.

(F) LIMITATION ON APPLICATION TO CERTAIN CONVERTED FACILITIES.—The hospital was not converted from an ambulatory surgical center to a hospital on or after the date of enactment of this subsection.

(2) PUBLICATION OF INFORMATION REPORTED.—The Secretary shall publish, and update on an annual basis, the information submitted by hospitals under paragraph (1)(C)(i) on the public Internet website of the Centers for Medicare & Medicaid Services.

(3) EXCEPTION TO PROHIBITION ON EXPANSION OF FACILITY CAPACITY.—

(A) PROCESS.—

(i) ESTABLISHMENT.—The Secretary shall establish and implement a process under which an applicable hospital (as defined in subparagraph (E)) may apply for an exception from the requirement under paragraph (1)(B).

(ii) OPPORTUNITY FOR COMMUNITY INPUT.—The process under clause (i) shall provide individuals and entities in the community that the applicable hospital applying for an exception is located with the opportunity to provide input with respect to the application.

(iii) TIMING FOR IMPLEMENTATION.—The Secretary shall implement the process under clause (i) on November 1, 2009.

(iv) REGULATIONS.—Not later than November 1, 2009, the Secretary shall promulgate regulations to carry out the process under clause (i).

(B) FREQUENCY.—The process described in subparagraph (A) shall permit an applicable hospital to apply for an exception up to once every 2 years.

(C) PERMITTED INCREASE.—

(i) IN GENERAL.—Subject to clause (ii) and subparagraph (D), an applicable hospital granted an exception under the process described in subparagraph (A) may increase the number of operating rooms, procedure rooms, and beds of the applicable hospital above the baseline number of operating rooms, procedure rooms, and beds of the applicable hospital (or, if the applicable hospital has been granted a previous exception under this paragraph, above the number of operating rooms, procedure rooms, and beds of the hospital after the application of the most recent increase under such an exception).

(ii) LIFETIME 100 PERCENT INCREASE LIMITATION.—The Secretary shall not permit an increase in the number of operating rooms, procedure rooms, and beds of an applicable hospital under clause (i) to the extent such increase would result in the number of operating rooms, procedure rooms, and beds of the applicable hospital exceeding 200 percent of the baseline number of operating rooms, procedure rooms, and beds of the applicable hospital.

(iii) BASELINE NUMBER OF OPERATING ROOMS, PROCEDURE ROOMS, AND BEDS.—In this paragraph, the term 'baseline number of operating rooms, procedure rooms, and beds' means the number of operating rooms, procedure rooms, and beds of the applicable hospital as of the date of enactment of this subsection.

(D) INCREASE LIMITED TO FACILITIES ON THE MAIN CAMPUS OF THE HOSPITAL.—Any increase in the number of operating rooms, procedure rooms, and beds of an applicable hospital pursuant to this paragraph may only occur in facilities on the main campus of the applicable hospital.

(E) APPLICABLE HOSPITAL.—In this paragraph, the term ''applicable hospital'' means a hospital—

(i) that is located in a county in which the percentage increase in the population during the most recent 5-year period (as of the date of the application under subparagraph (A)) is at least 150 percent of the percentage increase in the population growth of the State in which the hospital is located during that period, as estimated by Bureau of the Census;

(ii) whose annual percent of total inpatient admissions that represent inpatient admissions under the program under title XIX is equal to or greater than the average percent with respect to

such admissions for all hospitals located in the county in which the hospital is located;

(iii) that does not discriminate against beneficiaries of Federal health care programs and does not permit physicians practicing at the hospital to discriminate against such beneficiaries;

(iv) that is located in a State in which the average bed capacity in the State is less than the national average bed capacity; and

(v) that has an average bed occupancy rate that is greater than the average bed occupancy rate in the State in which the hospital is located.

(F) PROCEDURE ROOMS.—In this subsection, the term 'procedure rooms' includes rooms in which catheterizations, angiographies, angiograms, and endoscopies are performed, except such term shall not include emergency rooms or departments (exclusive of rooms in which catheterizations, angiographies, angiograms, and endoscopies are performed).

(G) PUBLICATION OF FINAL DECISIONS.—Not later than 60 days after receiving a complete application under this paragraph, the Secretary shall publish in the Federal Register the final decision with respect to such application.

(H) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of the process under this paragraph (including the establishment of such process).

(4) COLLECTION OF OWNERSHIP AND INVESTMENT INFORMATION.—For purposes of subparagraphs (A)(i) and (D)(i) of paragraph (1), the Secretary shall collect physician ownership and investment information for each hospital.

(5) PHYSICIAN OWNER DEFINED.—For purposes of this subsection, the term 'physician owner' means a physician (or an immediate family member of such physician) with a direct or an indirect ownership interest in the hospital.

* * * * *

TITLE XIX—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

* * * * *

STATE PLANS FOR MEDICAL ASSISTANCE

SEC. 1902. (a) A State plan for medical assistance must—* * *

* * * * *

(69) provide that the State must comply with any requirements determined by the Secretary to be necessary for carrying out the Medicaid Integrity Program established under section 1936; [and]

(70) at the option of the State and notwithstanding paragraphs (1), (10)(B), and (23), provide for the establishment of a non-emergency medical transportation brokerage program in order to more cost-effectively provide transportation for individuals eligible for medical assistance under the State plan who need access to medical care or services and have no other means of transportation which—

(A) may include a wheelchair van, taxi, stretcher car, bus passes and tickets, secured transportation, and such other transportation as the Secretary determines appropriate; and

(B) may be conducted under contract with a broker who—

(i) is selected through a competitive bidding process based on the State's evaluation of the broker's experience, performance, references, resources, qualifications, and costs;

(ii) has oversight procedures to monitor beneficiary access and complaints and ensure that transport personnel are licensed, qualified, competent, and courteous;

(iii) is subject to regular auditing and oversight by the State in order to ensure the quality of the transportation services provided and the adequacy of beneficiary access to medical care and services; and

(iv) complies with such requirements related to prohibitions on referrals and conflict of interest as the Secretary shall establish (based on the prohibitions on physician referrals under section 1877 and such other prohibitions and requirements as the Secretary determines to be appropriate)[.]*; and*

(71) provide that the State will implement an asset verification program as required under section 1940.

* * * * *

PAYMENT TO STATES

SEC. 1903. (a) From the sums appropriated therefor, the Secretary (except as otherwise provided in this section) shall pay to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing January 1, 1966—

* * * * *

(i) Payment under the preceding provisions of this section shall not be made—

* * * * *

(1) * * *

* * * * *

(22) with respect to amounts expended for medical assistance for an individual who declares under section 1137(d)(1)(A) to be a citizen or national of the United States for purposes of establishing eligibility for benefits under this title, unless the requirement of subsection (x) is met; [or]

(23) with respect to amounts expended for medical assistance for covered outpatient drugs (as defined in section 1927(k)(2)) for which the prescription was executed in written (and non-electronic) form unless the prescription was executed on a tamper-resistant pad[.]*; or*

(24) if a State is required to implement an asset verification program under section 1940 and fails to implement such program in accordance with such section, with respect to amounts expended by such State for medical assistance for individuals subject to asset verification under such section, unless—

(A) the State demonstrates to the Secretary's satisfaction that the State made a good faith effort to comply;

(B) not later than 60 days after the date of a finding that the State is in noncompliance, the State submits to the Secretary (and the Secretary approves) a corrective action plan to remedy such noncompliance; and

(C) not later than 12 months after the date of such submission (and approval), the State fulfills the terms of such corrective action plan.

* * * * *

SEC. 1927. (a) REQUIREMENT FOR REBATE AGREEMENT.

* * * * *

(c) DETERMINATION OF AMOUNT OF REBATE.—

(1) BASIC REBATE FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—

(A) IN GENERAL.—Except as provided in paragraph (2), the amount of the rebate specified in this subsection for a rebate period (as defined in subsection (k)(8)) with respect to each dosage form and strength of a single source drug or an innovator multiple source drug shall be equal to the product of—

* * * * *

(D) LIMITATION ON SALES AT A NOMINAL PRICE.—

(i) IN GENERAL.—For purposes of subparagraph (C)(ii)(III) and subsection (b)(3)(A)(iii)(III), only sales by a manufacturer of covered outpatient drugs at nominal prices to the following shall be considered to be sales at a nominal price or merely nominal in amount:

(I) A covered entity described in section 340B(a)(4) of the Public Health Service Act.

(II) An intermediate care facility for the mentally retarded.

(III) A State-owned or operated nursing facility.

(IV) An entity that—

(aa) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Act or is State-owned or operated; and

(bb) would be a covered entity described in section 340(B)(a)(4) of the Public Health Service Act insofar as the entity provides the same type of services to the same type of populations as a covered entity described in such section provides, but does not receive funding under a provision of law referred to in such section.

(V) A public or nonprofit entity, or an entity based at an institution of higher learning whose primary purpose is to provide health care services to students of that institution, that provides a service or services described under section 1001(a) of the Public Health Service Act.

[(IV)] *(VI)* Any other facility or entity that the Secretary determines is a safety net provider to which sales of such drugs at a nominal price would be appropriate based on the factors described in clause (ii).

* * * * *

(iv) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to alter any existing statutory or regulatory prohibition on services with respect to an entity described in subclause (IV) or (V) of clause (i), including the prohibition set forth in section 1008 of the Public Health Service Act.

* * * * *

HEALTH OPPORTUNITY ACCOUNTS

REFERENCES TO LAWS DIRECTLY AFFECTING MEDICAID PROGRAM

SEC. 1939. (a) AUTHORITY OR REQUIREMENTS TO COVER ADDITIONAL INDIVIDUALS.—For provisions of law which make additional individuals eligible for medical assistance under this title, see the following:

ASSET VERIFICATION THROUGH ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS

SEC. 1940. (a) IMPLEMENTATION.—

(1) IN GENERAL.—Subject to the provisions of this section, each State shall implement an asset verification program described in subsection (b), for purposes of determining or redetermining the eligibility of an individual for medical assistance under the State plan under this title.

(2) PLAN SUBMITTAL.—In order to meet the requirement of paragraph (1), each State shall—

(A) submit not later than a deadline specified by the Secretary consistent with paragraph (3), a State plan amendment under this title that describes how the State intends to implement the asset verification program; and

(B) provide for implementation of such program for eligibility determinations and redeterminations made on or after 6 months after the deadline established for submittal of such plan amendment.

(3) PHASE-IN.—

(A) IN GENERAL.—

(i) IMPLEMENTATION IN CURRENT ASSET VERIFICATION DEMO STATES.—The Secretary shall require those States specified in subparagraph (C) (to which an asset verification program has been applied before the date of the enactment of this section) to implement an asset verification program under this subsection by the end of fiscal year 2009.

(ii) IMPLEMENTATION IN OTHER STATES.—The Secretary shall require other States to submit and implement an asset verification program under this subsection in such manner as is designed to result in the application of such programs, in the aggregate for all such other States, to enrollment of approximately, but not less than, the following percentage of enrollees, in the aggregate for all such other States, by the end of the fiscal year involved:

(I) 12.5 percent by the end of fiscal year 2009.

(II) 25 percent by the end of fiscal year 2010.

(III) 50 percent by the end of fiscal year 2011.

(IV) 75 percent by the end of fiscal year 2012.

(V) 100 percent by the end of fiscal year 2013.

(B) CONSIDERATION.—In selecting States under subparagraph (A)(ii), the Secretary shall consult with the States involved and take into account the feasibility of implementing asset verification programs in each such State.

(C) STATES SPECIFIED.—The States specified in this subparagraph are California, New York, and New Jersey.

(D) CONSTRUCTION.—Nothing in subparagraph (A)(ii) shall be construed as preventing a State from requesting, and the Secretary approving, the implementation of an asset verification program in advance of the deadline otherwise established under such subparagraph.

(4) EXEMPTION OF TERRITORIES.—This section shall only apply to the 50 States and the District of Columbia.

(b) ASSET VERIFICATION PROGRAM.—

(1) IN GENERAL.—For purposes of this section, an asset verification program means a program described in paragraph (2) under which a State—

(A) requires each applicant for, or recipient of, medical assistance under the State plan under this title on the basis of being aged, blind, or disabled to provide authorization by such applicant or recipient (and any other person whose resources are required by law to be disclosed to determine the eligibility of the applicant or recipient for such assistance) for the State to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act of 1978 but at no cost to the applicant or recipient) from any financial institution (within the meaning of section 1101(1) of such Act) any financial record (within the meaning of section 1101(2) of such Act) held by the institution with respect to the applicant or recipient (and such other person, as applicable), whenever the State determines the record is needed in connection with a determination with respect to such eligibility for (or the amount or extent of) such medical assistance; and

(B) uses the authorization provided under subparagraph (A) to verify the financial resources of such applicant or recipient (and such other person, as applicable), in order to determine or redetermine the eligibility of such applicant or recipient for medical assistance under the State plan.

(2) PROGRAM DESCRIBED.—A program described in this paragraph is a program for verifying individual assets in a manner consistent with the approach used by the Commissioner of Social Security under section 1631(e)(1)(B)(ii).

(c) DURATION OF AUTHORIZATION.—Notwithstanding section 1104(a)(1) of the Right to Financial Privacy Act of 1978, an authorization provided to a State under subsection (b)(1)(A) shall remain effective until the earliest of—

(1) the rendering of a final adverse decision on the applicant's application for medical assistance under the State's plan under this title;

(2) the cessation of the recipient's eligibility for such medical assistance; or

(3) the express revocation by the applicant or recipient (or such other person described in subsection (b)(1)(A), as applicable) of the authorization, in a written notification to the State.

(d) TREATMENT OF RIGHT TO FINANCIAL PRIVACY ACT REQUIREMENTS.—

(1) An authorization obtained by the State under subsection (b)(1) shall be considered to meet the requirements of the Right to Financial Privacy Act of 1978 for purposes of section 1103(a) of such Act, and need not be furnished to the financial institution, notwithstanding section 1104(a) of such Act.

(2) The certification requirements of section 1103(b) of the Right to Financial Privacy Act of 1978 shall not apply to requests by the State pursuant to an authorization provided under subsection (b)(1).

(3) A request by the State pursuant to an authorization provided under subsection (b)(1) is deemed to meet the requirements of section 1104(a)(3) of the Right to Financial Privacy Act of 1978 and of section 1102 of such Act, relating to a reasonable description of financial records.

(e) REQUIRED DISCLOSURE.—The State shall inform any person who provides authorization pursuant to subsection (b)(1)(A) of the duration and scope of the authorization.

(f) REFUSAL OR REVOCATION OF AUTHORIZATION.—If an applicant for, or recipient of, medical assistance under the State plan under this title (or such other person described in subsection (b)(1)(A), as applicable) refuses to provide, or revokes, any authorization made by the applicant or recipient (or such other person, as applicable) under subsection (b)(1)(A) for the State to obtain from any financial institution any financial record, the State may, on that basis, determine that the applicant or recipient is ineligible for medical assistance.

(g) USE OF CONTRACTOR.—For purposes of implementing an asset verification program under this section, a State may select and enter into a contract with a public or private entity meeting such criteria and qualifications as the State determines appropriate, consistent with requirements in regulations relating to general contracting provisions and with section 1903(i)(2). In carrying out activities under such contract, such an entity shall be subject to the same requirements and limitations on use and disclosure of information as would apply if the State were to carry out such activities directly.

(h) TECHNICAL ASSISTANCE.—The Secretary shall provide States with technical assistance to aid in implementation of an asset verification program under this section.

(i) REPORTS.—A State implementing an asset verification program under this section shall furnish to the Secretary such reports concerning the program, at such times, in such format, and containing such information as the Secretary determines appropriate.

(j) TREATMENT OF PROGRAM EXPENSES.—Notwithstanding any other provision of law, reasonable expenses of States in carrying out the program under this section shall be treated, for purposes of section 1903(a), in the same manner as State expenditures specified in paragraph (7) of such section.

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OMNIBUS CONSOLIDATED RESCISSIONS AND APPROPRIATIONS ACT OF 1996, PUBLIC LAW 104–134

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SUPPLEMENTAL APPROPRIATIONS ACT OF 1996

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TITLE III

RESCISSIONS AND OFFSETS

CHAPTER 1

ENERGY AND WATER DEVELOPMENT

SUBCHAPTER A—UNITED STATES ENRICHMENT CORPORATION PRIVATIZATION

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SEC. 3102. DEFINITIONS.

[For purposes] *Except as provided in section 3112A, for purposes* of this subchapter:

* * * * *

SEC. 3112. URANIUM TRANSFERS AND SALES.

(a) TRANSFERS AND SALES BY THE SECRETARY.—[The Secretary] *Except as provided in section 3112A(d), the Secretary* shall not provide enrichment services or transfer or sell any uranium (including natural uranium concentrates, natural uranium hexafluoride, or enriched uranium in any form) to any person except as consistent with this section.

* * * * *

(f) SAVINGS PROVISION.—Nothing in this subchapter shall be read to modify the terms of the Russian HEU Agreement.

SEC. 3112A. INCENTIVES FOR ADDITIONAL DOWNBLENDING OF HIGHLY ENRICHED URANIUM BY THE RUSSIAN FEDERATION.

(a) DEFINITIONS.—In this section:

(1) COMPLETION OF THE RUSSIAN HEU AGREEMENT.—The term ''completion of the Russian HEU Agreement'' means the importation into the United States from the Russian Federation pursuant to the Russian HEU Agreement of uranium derived from the downblending of not less than 500 metric tons of highly enriched uranium of weapons origin.

(2) DOWNBLENDING.—The term ''downblending'' means processing highly enriched uranium into a uranium product in any form in which the uranium contains less than 20 percent uranium-235.

(3) HIGHLY ENRICHED URANIUM.—The term ''highly enriched uranium'' has the meaning given that term in section 3102(4).

(4) HIGHLY ENRICHED URANIUM OF WEAPONS ORIGIN.—The term ''highly enriched uranium of weapons origin'' means highly enriched uranium that—

(A) contains 90 percent or more uranium-235; and

(B) is verified by the Secretary of Energy to be of weapons origin.

(5) LOW-ENRICHED URANIUM.—The term ''low-enriched uranium'' means a uranium product in any form, including uranium hexafluoride (UF_6) and uranium oxide (UO_2), in which the uranium contains less than 20 percent uranium-235, without regard to whether the uranium is incorporated into fuel rods or complete fuel assemblies.

(6) RUSSIAN HEU AGREEMENT.—The term ''Russian HEU Agreement'' has the meaning given that term in section 3102(11).

(7) URANIUM-235.—The term ''uranium-235'' means the isotope ^{235}U.

(b) STATEMENT OF POLICY.—It is the policy of the United States to support the continued downblending of highly enriched uranium of weapons origin in the Russian Federation in order to protect the essential security interests of the United States with respect to the nonproliferation of nuclear weapons.

(c) PROMOTION OF DOWNBLENDING OF RUSSIAN HIGHLY ENRICHED URANIUM.—

(1) INCENTIVES FOR THE COMPLETION OF THE RUSSIAN HEU AGREEMENT.—Prior to the completion of the Russian HEU Agreement, the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation and is not imported pursuant to the Russian HEU Agreement may not exceed the following amounts:

(A) In each of the calendar years 2008 and 2009, not more than 22,500 kilograms.

(B) In each of the calendar years 2010 and 2011, not more than 45,000 kilograms.

(C) In calendar year 2012 and each calendar year thereafter through the calendar year of the completion of the Russian HEU Agreement, not more than 67,500 kilograms.

(2) INCENTIVES TO CONTINUE DOWNBLENDING RUSSIAN HIGHLY ENRICHED URANIUM AFTER THE COMPLETION OF THE RUSSIAN HEU AGREEMENT.—

(A) IN GENERAL.—In each calendar year beginning after the calendar year of the completion of the Russian HEU Agreement and before the termination date described in paragraph (8), the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin, may not exceed 400,000 kilograms.

(B) ADDITIONAL IMPORTS.—

(i) IN GENERAL.—In addition to the amount authorized to be imported under subparagraph (A) and except as provided in clause (ii), 20 kilograms of low-enriched uranium, whether or not

such low-enriched uranium is derived from highly enriched uranium of weapons origin, may be imported for every 3 kilograms of Russian highly enriched uranium of weapons origin that was downblended in the preceding calendar year, subject to the verification of the Secretary of Energy under paragraph (10).

(ii) MAXIMUM ANNUAL IMPORTS.—Not more than 200,000 kilograms of low-enriched uranium may be imported in a calendar year under clause (i).

(3) EXCEPTION WITH RESPECT TO INITIAL CORES.—The import limitations described in paragraphs (1) and (2) shall not apply to low-enriched uranium produced in the Russian Federation that is imported into the United States for use in the initial core of a new nuclear reactor.

(4) ANNUAL ADJUSTMENT.—

(A) IN GENERAL.—Beginning in the second calendar year after the calendar year of the completion of the Russian HEU Agreement, the Secretary of Energy shall increase or decrease the amount of low-enriched uranium that may be imported in a calendar year under paragraph (2) (including the amount of low-enriched uranium that may be imported for each kilogram of highly enriched uranium downblended under paragraph (2)(B)(i)) by a percentage equal to the percentage increase or decrease, as the case may be, in the average amount of uranium loaded into nuclear power reactors in the United States in the most recent 3-calendar-year period for which data are available, as reported by the Energy Information Administration of the Department of Energy, compared to the average amount of uranium loaded into such reactors during the 3-calendar-year period beginning on January 1, 2011, as reported by the Energy Information Administration.

(B) PUBLICATION OF ADJUSTMENTS.—As soon as practicable, but not later than July 31 of each calendar year, the Secretary of Energy shall publish in the Federal Register the amount of low-enriched uranium that may be imported in the current calendar year after the adjustment under subparagraph (A).

(5) AUTHORITY FOR ADDITIONAL ADJUSTMENT.—In addition to the annual adjustment under paragraph (4), the Secretary of Commerce may adjust the import limitations under paragraph (2)(A) for a calendar year if the Secretary—

(A) in consultation with the Secretary of Energy, determines that the available supply of low-enriched uranium from the Russian Federation and the available stockpiles of uranium of the Department of Energy are insufficient to meet demand in the United States in the following calendar year; and

(B) notifies Congress of the adjustment not less than 45 days before making the adjustment.

(6) EQUIVALENT QUANTITIES OF LOW-ENRICHED URANIUM IMPORTS.—

(A) IN GENERAL.—The import limitations described in paragraphs (1) and (2) are expressed in terms of uranium containing 4.4 percent uranium-235 and a tails assay of 0.3 percent.

(B) ADJUSTMENT FOR OTHER URANIUM.—Imports of low-enriched uranium under paragraphs (1) and (2) shall count against the import limitations described in such paragraphs in amounts calculated as the quantity of low-enriched uranium containing 4.4 percent uranium-235 necessary to equal the total amount of uranium-235 contained in such imports.

(7) DOWNBLENDING OF OTHER HIGHLY ENRICHED URANIUM.—

(A) IN GENERAL.—The downblending of highly enriched uranium not of weapons origin may be counted for purposes of paragraph (2)(B) or (8)(B), subject to verification under paragraph (10), if the Secretary of Energy determines that the highly enriched uranium to be downblended poses a risk to the national security of the United States.

(B) EQUIVALENT QUANTITIES OF HIGHLY ENRICHED URANIUM.—For purposes of determining the additional low-enriched uranium imports allowed under paragraph (2)(B) and for purposes of paragraph (8)(B), highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A) shall count as downblended highly enriched uranium of weapons origin in amounts calculated as the quantity of highly enriched uranium containing 90 percent uranium-235 necessary to equal the total amount of uranium-235 contained in the highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A).

(8) TERMINATION OF IMPORT RESTRICTIONS AFTER DOWNBLENDING OF AN ADDITIONAL 300 METRIC TONS OF HIGHLY ENRICHED URANIUM.—The provisions of this subsection shall terminate on the later of—

(A) December 31, 2020; or

(B) the date on which the Secretary of Energy certifies to Congress that, after the completion of the Russian HEU Agreement, not less than an additional 300 metric tons of Russian highly enriched uranium of weapons origin have been downblended.

(9) SPECIAL RULE IF IMPORTATION UNDER RUSSIAN HEU AGREEMENT TERMINATES EARLY.—Notwithstanding any other provision of law, no low-enriched uranium produced in the Russian Federation that is not derived from highly enriched uranium of weapons origin, including low-enriched uranium obtained under contracts for separative work units, may be imported into the United States if, before the completion of the Russian HEU Agreement, the Secretary of Energy determines that the Russian Federation has taken deliberate action to disrupt or halt the importation into the United States of low-enriched uranium under the Russian HEU Agreement.

(10) TECHNICAL VERIFICATIONS BY SECRETARY OF ENERGY.—

(A) IN GENERAL.—The Secretary of Energy shall verify the origin, quantity, and uranium-235 content of the highly enriched uranium downblended for purposes of paragraphs (2)(B), (7), and (8)(B).

(B) METHODS OF VERIFICATION.—In conducting the verification required under subparagraph (A), the Secretary of Energy shall employ the transparency measures provided for in the Russian HEU Agreement for monitoring the downblending of Russian highly enriched uranium of weapons origin and such other methods as the Secretary determines appropriate.

(11) ENFORCEMENT OF IMPORT LIMITATIONS.—The Secretary of Commerce shall be responsible for enforcing the import limitations imposed under this subsection and shall enforce such import limitations in a manner that imposes a minimal burden on the commercial nuclear industry.

(12) EFFECT ON OTHER AGREEMENTS.—

(A) RUSSIAN HEU AGREEMENT.—Nothing in this section shall be construed to modify the terms of the Russian HEU Agreement, including the provisions of the Agreement relating to the amount of low-enriched uranium that may be imported into the United States.

(B) OTHER AGREEMENTS.—If a provision of any agreement between the United States and the Russian Federation, other than the Russian HEU Agreement, relating to the importation of low-enriched uranium into the United States conflicts with a provision of this section, the provision of this section shall supersede the provision of the agreement to the extent of the conflict.

(d) DOWNBLENDING OF HIGHLY ENRICHED URANIUM IN THE UNITED STATES.—The Secretary of Energy may sell uranium in the jurisdiction of the Secretary, including downblended highly enriched uranium, at fair market value to a licensed operator of a nuclear reactor in the United States—

(1) in the event of a disruption in the nuclear fuel supply in the United States; or

(2) after a determination of the Secretary under subsection (c)(9) that the Russian Federation has taken deliberate action to disrupt or halt the importation into the United States of low-enriched uranium under the Russian HEU Agreement.

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AMERICAN COMPETITIVENESS IN THE TWENTY-FIRST CENTURY ACT OF 2000, PUBLIC LAW 106–313

* * * * *

TITLE I—AMERICAN COMPETITIVENESS IN THE TWENTY-FIRST CENTURY

SEC. 101. * * *

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SEC. 106. SPECIAL PROVISIONS IN CASES OF LENGTHY ADJUDICATIONS.

(a) * * *

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(d) RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the number of employment-based visas (as defined in paragraph (3)) made available for a fiscal year (beginning with fiscal year 2001) shall be increased by the number described in paragraph (2). Visas made available under this subsection shall only be available in a fiscal year to employment-based immigrants under paragraph (1), (2), or (3) of section 203(b) of the Immigration and Nationality Act and any such visa that is made available due to the difference between the number of employment-based visas that were made available in fiscal year *1994, 1996, 1997, 1998,* 2001, 2002, 2003, [or 2004] *2004, or 2006* and the number of such visas that were actually used in such fiscal year [shall be available only to employment-based immigrants (and their family members accompanying or following to join under section 203(d) of such Act (8 U.S.C. 1153(d))) whose immigrant worker petitions were approved based on schedule A, as defined in section 656.5 of title 20, Code of Federal Regulations, as promulgated by the Secretary of Labor.] *shall be available only to—*

(A) an employment-based immigrant under paragraph (1), (2), (3)(A)(i), or (3)(A)(ii) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)), except for employment-based immigrants whose petitions are or have been approved based on Schedule A, Group I as defined in section 656.5 of title 20, Code of Federal Regulations; or

(B) a spouse or child accompanying or following to join such an employment-based immigrant under section 203(d) of such Act (8 U.S.C. 1153(d)).

(2) NUMBER AVAILABLE.—

(A) IN GENERAL.—Subject to subparagraph (B), the number described in this paragraph is the difference between the number of employment-based visas that were made available in fiscal [years 1999 through 2004] *year 1994 and each subsequent fiscal year* and the number of such visas that were actually used in such fiscal years.

(B)[(i)] REDUCTION.—The number described in subparagraph (A) shall be reduced, for each fiscal year after fiscal year 2001, by the cumulative number of immigrant visas actually used under paragraph (1) for previous fiscal years.

[(ii) MAXIMUM.—The total number of visas made available under paragraph (1) from unused visas from the fiscal years 2001 through 2004 may not exceed 50,000.]

* * * * *

(3) EMPLOYMENT-BASED VISAS DEFINED.—For purposes of this subsection, the term ''employment-based visa'' means an immigrant visa which is issued pursuant to the numerical limitation under section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)).

(4) EMPLOYMENT-BASED VISA RECAPTURE FEE.—A fee shall be paid in connection with any petition seeking an employment-based immigrant visa number recaptured under paragraph (1), known as the Employment-Based Visa Recapture Fee, in the amount of $1500. Such Fee may not be charged for a dependent accompanying or following to join such employment-based immigrant.

(e) VISA SHORTAGE RELIEF FOR NURSES AND PHYSICAL THERAPISTS.—

(1) IN GENERAL.—Subject to paragraph (2), for petitions filed during the period beginning on the date of the enactment of the Emergency Nursing Supply Relief Act and ending on September 30, 2011, for employment-based immigrants (and their family members accompanying or following to join under section 203(d) of the Immigration and Nationality Act (8 U.S.C. 1153(d)), which are or have been approved based on Schedule A, Group I as defined in section 656.5 of title 20, Code of Federal Regulations, as promulgated by the Secretary of Labor, the numerical limitations set forth in sections 201(d) and 202(a) of such Act (8 U.S.C. 1151(d) and 1152(a)) shall not apply.

(2) LIMITATION ON NUMBER OF VISAS.—The Secretary of State may not issue more than 20,000 immigrant visa numbers in any one fiscal year (plus any available visa numbers under this paragraph not used during the preceding fiscal year) to principal beneficiaries of petitions pursuant to paragraph (1).

(3) EXPEDITED REVIEW.—The Secretary of Homeland Security shall provide a process for reviewing and acting upon petitions with respect to immigrants described in paragraph (1) not later than 30 days after the date on which a completed petition has been filed.

(f) FEE FOR USE OF VISAS UNDER SUBSECTION (a).—

(1) IN GENERAL.—The Secretary of Homeland Security shall impose a fee upon each petitioning employer who uses a visa provided under subsection (e) to provide employment for an alien as a professional nurse, except that—

(A) such fee shall be in the amount of $1,500 for each such alien nurse (but not for dependents accompanying or following to join who are not professional nurses); and

(B) no fee shall be imposed for the use of such visas if the employer demonstrates to the Secretary that—

(i) the employer is a health care facility that is located in a county or parish that received individual and public assistance pursuant to Major Disaster Declaration number 1603 or 1607; or

(ii) the employer is a health care facility that has been designated as a Health Professional Shortage Area facility by the Secretary of Health and Human Services as defined in section 332 of the Public Health Service Act (42 U.S.C. 254e).

(2) FEE COLLECTION.—A fee imposed by the Secretary of Homeland Security pursuant to paragraph (1) shall be collected by the Secretary as a condition of approval of an application for adjustment of status by the beneficiary of a petition or by the Secretary of State as a condition of issuance of a visa to such beneficiary.

* * * * *

SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT OF 2000, PUBLIC LAW 106–393

* * * * *

TITLE II—SPECIAL PROJECTS ON FEDERAL LANDS

* * * * *

SEC. 208. TERMINATION OF AUTHORITY.

The authority to initiate projects under this title shall terminate on September 30, [2007] *2008*. Any project funds not obligated by September 30, [2008] *2009*, shall be deposited in the Treasury of the United States.

TITLE III—COUNTY PROJECTS

* * * * *

SEC. 303. TERMINATION OF AUTHORITY.

* * * * *

The authority to initiate projects under this title shall terminate on September 30, [2007] *2008*. Any county funds not obligated by September 30, [2008] *2009* shall be available to be expended by the county for the uses identified in section 302(b).

* * * * *

DEFICIT REDUCTION ACT, 2005, PUBLIC LAW 109–171

TITLE III—DIGITAL TELEVISION TRANSITION AND PUBLIC SAFETY

* * * * *

§ 3008. LOW-POWER TELEVISION AND TRANSLATOR DIGITAL-TO-ANALOG CONVERSION.

(a) CREATION OF PROGRAM.—

(1) IN GENERAL.—The Assistant Scretary shall make payments of not to exceed $10,000,000, in the aggregate, during the fiscal year 2008 and 2009 period from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement and administer a program through which each eligible low-power television station may receive compensation toward the cost of the purchase of a digital-to-analog conversion device that enables it to convert the incoming digital signal of its corresponding full-power television station to analog format for transmission on the low-power television station's analog channel. An eligible low-power television station may receive such compensation only if it submits a request for such compensation on or before February 17, 2009. Priority compensation shall be given to eligible low-power television stations in which the license is held by a non-profit corporation and eligible low-power television stations that serve rural areas of fewer than 10,000 viewers.

(2) USE OF FUNDS.—As soon as practicable after the date of enactment of this Act, the Assistant Secretary shall make a determination, which the Assistant Secretary may adjust from time to time, with respect to whether the full amount provided under paragraph (1) will be needed for payments under that paragraph. If the Assistant Secretary determines that the full amount will not be needed for payments authorized by paragraph (1), the Assistant Secretary may use the remaining amount for consumer education and technical assistance regarding the digital television transition and the availability of the digital-to-analog converter box program (in addition to any amounts expended for such purpose under 3005(c)(2)(A) of this title), including partnering with, providing grants to, and contracting with non-profit organizations or public interest groups in achieving these efforts. If the Assistant Secretary initiates such an education program, the Assistant Secretary shall develop a plan to address the educational and technical assistance needs of vulnerable populations, such as senior citizens, individuals residing in rural and remote areas, and minorities, including, where appropriate, education plans focusing on the need for analog pass-through digital converter boxes in areas served by low power or translator stations, and shall consider the speed with which these objectives can be accomplished to the greatest public benefit.

* * * * *

§ 3009. LOW-POWER TELEVISION AND TRANSLATOR UPGRADE PROGRAM.

(a) ESTABLISHMENT.—The Assistant Secretary shall make payments of not to exceed $65,000,000, in the aggregate, during [fiscal year 2009] *fiscal years 2009 through 2012* from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement and administer a program through which each licensee of an eligible low-power television station may receive reimbursement for equipment to upgrade low-power television stations from analog to digital in eligible rural communities, as that term is defined in section 610(b)(2) of the Rural Electrification Act of 1937 (7 U.S.C. 950bb(b)(2)). Such reimbursements shall be issued to eligible stations [no earlier than October 1, 2010] *on or after February 18, 2009*. Priority reimbursements shall be given to eligible low-power television stations in which the license is held by a non-profit corporation and eligible low-power television stations that serve rural areas of fewer than 10,000 viewers.

* * * * *

CONSOLIDATED APPROPRIATIONS ACT, 2004, PUBLIC LAW 108–199

* * * * *

DIVISION B—COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 2004

* * * * *

TITLE VI—GENERAL PROVISIONS

* * * * *

SEC. 627. The Departments of Commerce, Justice, State, the Judiciary, and the Small Business Administration shall each establish a policy under which eligible employees may participate in telecommuting to the maximum extent possible without diminished employee performance: *Provided*, That, not later than 6 months after the date of the enactment of this Act, each of the aforementioned entities shall provide that the requirements of this section are applied to 100 percent of the workforce: *Provided further*, That, of the funds appropriated in this Act for the Departments of Commerce, Justice, and State, the Judiciary, and the Small Business Administration, $200,000 shall be available to each Department or agency only to implement telecommuting programs: *Provided further*, That, every 6 months, each Department or agency shall provide a report to the Committees on Appropriations on the status of telecommuting programs, including the number of Federal employees eligible for, and participating in, such programs, and uses of funds designated under this section: *Provided further*, That each Department or agency shall [designate a ''Telework Coordinator'' to be] *appoint a Telework Managing Officer to be* responsible for overseeing the implementation of telecommuting programs and serve as a point of contact on such programs for the Committees on Appropriations.

* * * * *

CONSOLIDATED APPROPRIATIONS ACT, 2005, PUBLIC LAW 108–447

* * * * *

DIVISION B—DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2005

* * * * *

TITLE VI—GENERAL PROVISIONS

* * * * *

SEC. 622. The Departments of Commerce, Justice, State, the Judiciary, the Securities and Exchange Commission and the Small Business Administration shall, not later than two months after the date of the enactment of this Act, certify that telecommuting opportunities are made available to 100 percent of the eligible workforce: *Provided*,

That, of the total amounts appropriated to the Departments of Commerce, Justice, State, the Judiciary, the Securities and Exchange Commission and the Small Business Administration, $5,000,000 shall be available only upon such certification: *Provided further,* That each Department or agency shall provide quarterly reports to the Committees on Appropriations on the status of telecommuting programs, including the number of Federal employees eligible for, and participating in, such programs: *Provided further,* That each Department or agency shall [designate a ''Telework Coordinator'' to be] *appoint a Telework Managing Officer to be* responsible for overseeing the implementation and operations of telecommuting programs, and serve as a point of contact on such programs for the Committees on Appropriations.

* * * * *

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006, PUBLIC LAW 109–282

* * * * *

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Funding Accountability and Transparency Act of 2006''.

SEC. 2. FULL DISCLOSURE OF ENTITIES RECEIVING FEDERAL FUNDING.

(a) * * *

* * * * *

(b) IN GENERAL.—

(1) WEBSITE.—Not later than January 1, 2008, the Office of Management and Budget shall, in accordance with this section, section 204 of the E-Government Act of 2002 (Public Law 107–347; 44 U.S.C. 3501 note), and the Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.), ensure the existence and operation of a single searchable website, accessible by the public at no cost to access, that includes for each Federal award—

(A) * * *

* * * * *

(E) a unique identifier of the entity receiving the award and of the parent entity of the recipient, should the entity be owned by another entity; [and]

(F) the names and total compensation of the five most highly compensated officers of the entity if—

(i) the entity in the preceding fiscal year received—

(I) 80 percent or more of its annual gross revenues in Federal awards; and

(II) $25,000,000 or more in annual gross revenues from Federal awards; and

(ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

[(F)] *(G)* any other relevant information specified by the Office of Management and Budget.

* * * * *

U.S. TROOP READINESS, VETERANS' CARE, KATRINA RECOVERY, AND IRAQ ACCOUNTABILITY APPROPRIATIONS ACT, 2007, PUBLIC LAW 110–28

* * * * *

TITLE VII—ELIMINATION OF SCHIP SHORTFALL AND OTHER HEALTH MATTERS

* * * * *

SEC. 7002. (a) PROHIBITION.—

(1) LIMITATION ON SECRETARIAL AUTHORITY.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, [prior to the date that is 1 year after the date of enactment of this Act] *prior to April 1, 2009,* take any action (through promulgation of regulation, issuance of regulatory guidance, or other administrative action) to—

(A) finalize or otherwise implement provisions contained in the proposed rule published on January 18, 2007, on pages 2236 through 2248 of volume 72, Federal Register (relating to parts 433, 447, and 457 of title 42, Code of Federal Regulations) *or in the final regulation, relating to such parts, published on May 29, 2007 (72 Federal Register 29748)*;

(B) promulgate or implement any rule or provisions similar to the provisions described in subparagraph (A) pertaining to the Medicaid program established under title XIX of the Social Security Act or the State Children's Health Insurance Program established under title XXI of such Act; or

(C) promulgate or implement any rule or provisions restricting payments for graduate medical education under the Medicaid program, *including the proposed regulation published on May 23, 2007 (72 Federal Register 28930).*

* * * * *

TITLE VIII—FAIR MINIMUM WAGE AND TAX RELIEF

Subtitle A—Fair Minimum Wage

SEC. 8101. * * *

* * * * *

[SEC. 8104. STUDY ON PROJECTED IMPACT.

[(a) STUDY.—Beginning on the date that is 60 days after the date of enactment of this Act, the Secretary of Labor shall, through the Bureau of Labor Statistics, conduct a study to—

[(1) assess the impact of the wage increases required by this Act through such date; and

[(2) project the impact of any further wage increase, [on living standards and rates of employment in American Samoa and the Commonwealth of the Northern Mariana Islands.

[(b) REPORT.—Not later than the date that is 8 months after the date of enactment of this Act, the Secretary of Labor shall transmit to Congress a report on the findings of the study required by subsection (a).]

SEC. 8104. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES.

(a) STUDY.—Beginning on the date that is 60 days after the date of enactment of this Act, and every year thereafter until the minimum wage in the respective territory is $7.25 per hour, the Government Accountability Office shall conduct a study to—

(1) assess the impact of the minimum wage increases that occurred in American Samoa and the Commonwealth of the Northern Mariana Islands in 2007 and 2008, as required under Public Law 110–28, on the rates of employment and the living standards of workers, with full consideration of the other factors that impact rates of employment and the living standards of workers such as inflation in the cost of food, energy, and other commodities; and

(2) estimate the impact of any further wage increases on rates of employment and the living standards of workers in American Samoa and the Commonwealth of the Northern Mariana Islands, with full consideration of the other factors that may impact the rates of employment and the living standards of workers, including assessing how the profitability of major private sector firms may be impacted by wage increases in comparison to other factors such as energy costs and the value of tax benefits.

(b) REPORT.—No earlier than March 15, 2009, and not later than April 15, 2009, the Government Accountability Office shall transmit its first report to Congress concerning the findings of the study required under subsection (a). The Government Accountability Office shall transmit any subsequent reports to Congress concerning the findings of a study required by subsection (a) between March 15 and April 15 of each year.

(c) ECONOMIC INFORMATION.—To provide sufficient economic data for the conduct of the study under subsection (a)—

(1) the Department of Labor shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its household surveys and establishment surveys;

(2) the Bureau of Economic Analysis of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its gross domestic product data; and

(3) the Bureau of the Census of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its population estimates and demographic profiles from the American Community Survey, with the same regularity and to the same extent as the Department or each Bureau collects and reports such data for the 50 States. In the event that the inclusion of American Samoa and the Commonwealth of the Northern Mariana Islands in such surveys and data compilations requires time to structure and implement, the Department of Labor, the Bureau of Economic Analysis, and the Bureau of the Census (as the case may be) shall in the interim annually report the best available data that can feasibly be secured with respect to such territories. Such interim reports shall describe the steps the Department or the respective Bureau will take to improve future data collection in the territories to achieve comparability with the data collected in the United States. The Department of Labor, the Bureau of Economic Analysis, and the Bureau of the Census, together with the Department of the Interior, shall coordinate their efforts to achieve such improvements.

* * * * *

TMA, ABSTINENCE EDUCATION, AND QI PROGRAMS EXTENSION ACT OF 2007, PUBLIC LAW 110–90

* * * * *

[SEC. 4. EXTENSION OF SSI WEB-BASED ASSET DEMONSTRATION PROJECT TO THE MEDICAID PROGRAM.

[(a) IN GENERAL.—Beginning on October 1, 2007, and ending on September 30, 2012, the Secretary of Health and Human Services shall provide for the application to asset eligibility determinations under the Medicaid program under title XIX of the Social Security Act of the automated, secure, web-based asset verification request and response process being applied for determining eligibility for benefits under the Supplemental Security Income (SSI) program under title XVI of such Act under a demonstration project conducted under the authority of section 1631(e)(1)(B)(ii) of such Act (42 U.S.C. 1383(e)(1)(B)(ii)).

[(b) LIMITATION.—Such application shall only extend to those States in which such demonstration project is operating and only for the period in which such project is otherwise provided.

[(c) RULES OF APPLICATION.—For purposes of carrying out subsection (a), notwithstanding any other provision of law, information obtained from a financial institution that is used for purposes of eligibility determinations under such demonstration project with respect to the Secretary of Health and Human Services under the SSI program may also be shared and used by States for purposes of eligibility determinations under the Medicaid program. In applying section 1631(e)(1)(B)(ii) of the Social Security Act under this subsection, references to the Commissioner of Social Security and benefits

under title XVI of such Act shall be treated as including a reference to a State described in subsection (b) and medical assistance under title XIX of such Act provided by such a State.]

* * * * *

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2008, PUBLIC LAW 110–116

DIVISION A—DEPARTMENT OF DEFENSE, 2008

* * * * *

TITLE VIII

GENERAL PROVISIONS

* * * * *

SEC. 8122. (a) Notwithstanding any other provision of law, and in addition to amounts otherwise made available by this Act, there is appropriated $11,630,000,000 for the ''Mine Resistant Ambush Protected Vehicle Fund'', to remain available until September 30, 2008.

* * * * *

(c)(1) * * *

* * * * *

(3) * * *

(4) Upon a determination that all or part of the funds transferred under paragraph (1) are not necessary to accomplish the purposes specified in subsection (b), such amounts may be transferred back to the ''Mine Resistant Ambush Protected Vehicle Fund''.

* * * * *

MEDICARE, MEDICAID, AND SCHIP EXTENSION ACT OF 2007, PUBLIC LAW 110–173

* * * * *

SEC. 206. MORATORIUM ON CERTAIN PAYMENT RESTRICTIONS.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to [June 30, 2008] *April 1, 2009*, take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to impose any restrictions relating to coverage or payment under title XIX of the Social Security Act for rehabilitation services, *including the proposed regulation published on August 13, 2007 (72 Federal Register 45201)*, or school-based administration and school-based transportation, *including the final regulation published on December 28, 2007 (72 Federal Register 73635)*, if such restrictions are more restrictive in any aspect than those applied to such areas as of July 1, 2007.

* * * * *

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008, PUBLIC LAW 110–181

* * * * *

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

* * * * *

SEC. 1002. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2008.

(a) * * *

* * * * *

(c) AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), $1,031,000 for the Civil Budget.

(2) Of the amount provided in section 301(1), [$362,159,000] *$435,259,000* for the Military Budget.

* * * * *

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

[In thousands of dollars]

Doc. No.		Supplemental estimate	Committee recommendation	Committee recommendation compared with supplemental estimate (+ or −)
	TITLE I			
	OTHER SECURITY, MILITARY CONSTRUCTION, AND INTERNATIONAL MATTERS			
	CHAPTER 1			
	DEPARTMENT OF AGRICULTURE			
	Foreign Agricultural Service			
110–68	Public Law 480 Title II Grants (emergency)	350,000	850,000	+500,000
110–108	Advance appropriation, fiscal year 2009 (emergency	395,000	395,000	
	Total, Chapter 1	745,000	1,245,000	+500,000
	Emergency appropriations, fiscal year 2008	(350,000)	(850,000)	(+500,000)
	Advance appropriation, fiscal year 2009 (emergency)	(395,000)	(395,000)	
	CHAPTER 2			
	DEPARTMENT OF JUSTICE			
	General Administration			
	Office of Inspector General (emergency)		4,000	+4,000
	Legal Activities			
	General Legal Activities			
110–3	Salaries and expenses (emergency)	4,093	1,648	−2,445
	United States Attorneys			
110–3	Salaries and expenses (emergency)	5,000	5,000	
	United States Marshals Service			
110–3	Salaries and expenses (emergency)	14,921	18,621	+3,700
	Total, Legal activities	24,014	25,269	+1,255
	Federal Bureau of Investigation			
110–3	Salaries and expenses (emergency)	101,122	164,965	+63,843
110–108	Advance appropriation, fiscal year 2009 (emergency)	39,062	82,600	+43,538
	Total, Federal Bureau of Investigation	140,184	247,565	+107,381
	Drug Enforcement Administration			
110–3	Salaries and expenses (emergency)	8,468	22,666	+14,198
	Bureau of Alcohol, Tobacco, Firearms and Explosives			
110–3	Salaries and expenses (emergency)	4,000	4,000	
	Federal Prison System			
110–3	Salaries and expenses (emergency)	9,100	9,100	
	Total, Chapter 2	185,766	312,600	+126,834
	(Emergency appropriations)	146,704	230,000	+83,296
	(Advance appropriation, fiscal year 2009)	39,062	82,600	+43,538
	CHAPTER 3			
	DEPARTMENT OF DEFENSE			
110–3, 110–68	Military construction, Army (emergency)	1,440,750	1,170,200	−270,550
110–3, 110–68	Military construction, Navy and Marine Corps (emergency)	237,505	300,084	+62,579
110–68	Military construction, Air Force (emergency)	305,000	361,900	+56,900

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

[In thousands of dollars]

Doc. No.		Supplemental estimate	Committee recommendation	Committee recommendation compared with supplemental estimate (+ or −)
110–68	Military construction, Defense-Wide (emergency)	27,600	27,600	
	Total, Active components	2,010,855	1,859,784	−151,071
	Family Housing			
110–3	Family housing construction, Navy and Marine Corps (emergency)	11,766	11,766	
110–68	Base realignment and closure account, 2005 (emergency)	415,910	1,202,886	+786,976
	Total, Department of Defense	2,438,531	3,074,436	+635,905
	DEPARTMENT OF VETERANS AFFAIRS			
	Departmental Administration			
	General Operating Expenses (emergency)		100,000	+100,000
	Information Technology Systems (emergency)		20,000	+20,000
	Construction, major (emergency)		437,100	+437,100
	Total, Departmental Administration		557,100	+557,100
	General Provisions			
	Sec. 1301 Child development centers, Army (emergency)		70,600	+70,600
	Sec. 1302 Child development centers, Navy (emergency)		89,820	+89,820
	Sec. 1303 Child development centers, Air Force (emergency)		8,100	+8,100
	Sec. 1304 Barracks improvements (emergency)		200,000	+200,000
	Total, General Provisions		368,520	+368,520
	Total, Chapter 3	2,438,531	4,000,056	+1,561,525
	CHAPTER 4			
	SUBCHAPTER A—SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2008			
	DEPARTMENT OF STATE			
	Administration of Foreign Affairs			
110–68	Diplomatic and consular programs (emergency)	1,708,008	1,413,700	−294,308
	Office of Inspector General (emergency)		12,500	+12,500
	Educational and cultural exchange program (emergency)		10,000	+10,000
110–3	Embassy security, construction, and maintenance (emergency)	160,000	76,700	−83,300
	Total, Administration of Foreign Affairs	1,868,008	1,512,900	−355,108
	International Organizations			
110–3	Contributions to international organizations (emergency)	53,000	66,000	+13,000
110–3	Contributions for international peacekeeping activities, current year (emergency)	333,600	383,600	+50,000
	Total, International Organizations	386,600	449,600	+63,000
	RELATED AGENCY			
	Broadcasting Board of Governors			
	International Broadcasting Operations (emergency)		3,000	+3,000
	Total, Department of State	2,254,608	1,965,500	−289,108
	BILATERAL ECONOMIC ASSISTANCE			
	Funds Appropriated to the President			
	International disaster assistance (emergency)		240,000	+240,000
110–3	Operating expenses of the U.S. Agency for International Development (emergency)	41,000	149,500	+108,500
	Operating expenses of the U.S. Agency for International Development Office of Inspector General (emergency)		4,000	+4,000
	Total, Funds Appropriated to the President	41,000	393,500	+352,500
	Other Bilateral Economic Assistance			
110–3	Economic support fund (emergency)	2,009,000	1,962,500	−46,500
	Department of State			
	Democracy fund (emergency)		76,000	+76,000
110–3, 110–68	International narcotics control and law enforcement (emergency)	734,000	520,000	−214,000
110–3	Migration and refugee assistance (emergency)	30,000	330,500	+300,500
	Emergency migration and refugee assistance (emergency)		36,608	+36,608
110–68	Nonproliferation, anti-terrorism, demining and related programs (emergency)	5,000	10,000	+5,000
	Total, Department of State	769,000	973,108	+204,108
	Military Assistance			
	Funds Appropriated to the President			
	Peacekeeping operations (emergency)		10,000	+10,000
	Total, Subchapter A	5,073,608	5,304,608	+231,000
	SUBCHAPTER B—BRIDGE FUND APPROPRIATIONS FOR FISCAL YEAR 2009			
	DEPARTMENT OF STATE			
	Administration of Foreign Affairs			
110–108	Diplomatic and consular programs (emergency)	1,064,500	652,400	−412,100
110–108	Office of Inspector General (emergency)	16,800	57,000	+40,200
	Embassy Security, construction and Maintenance (emergency)		41,300	+41,300
	Total, Administration of Foreign Affairs	1,081,300	750,700	−330,600
	International Organizations			
110–108	Contributions to international organizations (emergency)	40,000	75,000	+35,000
	Contributions for international peacekeeping activities, current year (emergency)		150,500	+150,500
	Total, International Organizations	40,000	225,500	+185,500
	Total, Department of State	1,121,300	976,200	−145,100

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

[In thousands of dollars]

Doc. No.		Supplemental estimate	Committee recommendation	Committee recommendation compared with supplemental estimate (+ or −)
	RELATED AGENCY			
	Broadcasting Board of Governors			
	International Broadcasting Operations (emergency)		6,000	+6,000
	BILATERAL ECONOMIC ASSISTANCE			
	Funds Appropriated to the President			
	Global Health and Child Survival (emergency)		75,000	+75,000
110–108	Development Assistance (emergency)	210,000	200,000	−10,000
110–108	International disaster assistance (emergency)	270,000	200,000	−70,000
110–108	Operating expenses of the U.S. Agency for International Development (emergency)	60,000	93,000	+33,000
	Operating expenses of the U.S. Agency for International Development Office of Inspector General (emergency)		1,000	+1,000
	Total, Funds Appropriated to the President	540,000	569,000	+29,000
	Other Bilateral Economic Assistance			
110–108	Economic support fund (emergency)	1,297,800	1,132,300	−165,500
	Department of State			
110–108	International narcotics control and law enforcement (emergency)	225,000	151,000	−74,000
110–108	Migration and refugee assistance (emergency)	191,000	350,000	+159,000
	Nonproliferation, anti-terrorism, demining and related programs (emergency)		4,500	+4,500
	Total, Department of State	416,000	505,500	+89,500
	Military Assistance			
	Funds Appropriated to the President			
110–108	Foreign Military Financing program grants (emergency)	170,000	145,000	−25,000
110–108	Peacekeeping operations (emergency)	60,000	85,000	+25,000
	Total, Military Assistance	230,000	230,000	
	Total, Subchapter B	3,605,100	3,419,000	−186,100
	SUBCHAPTER C			
	GENERAL PROVISIONS			
	Sec. 1410(a) Contribution to World Food Program		20,000	+20,000
	(Rescission)		−20,000	−20,000
	Sec. 1410(b) Sudan		10,000	+10,000
	(Rescission)		−10,000	−10,000
	Sec. 1410(c) Mexico IRRF (rescission of emergency appropriations)		−50,000	−50,000
	Sec. 1410(d) Horn of Africa (emergency)		40,000	+40,000
	Rescission of emergency appropriations		−40,000	−40,000
	Sec. 1412 Food Security and Cyclone relief		225,000	+225,000
	(Rescission)		−225,000	−225,000
	Sec. 1414 Jordan		300,000	+300,000
	(Rescission)		−300,000	−300,000
	Total, General Provisions		−50,000	−50,000
	Total, Subchapter C		−50,000	−50,000
	Appropriations		(555,000)	(+555,000)
	Emergency appropriations, fiscal year 2008		(40,000)	(+40,000)
	Rescissions		(−555,000)	(−555,000)
	Rescission of emergency appropriations		(−90,000)	(−90,000)
	Total, Chapter 4	8,678,708	8,673,608	−5,100
	Appropriations		(555,000)	(+555,000)
	Emergency appropriations, fiscal year 2008	(5,073,608)	(5,344,608)	(+271,000)
	Advance appropriation, fiscal year 2009 (emergency)	(3,605,100)	(3,419,000)	(−186,100)
	Rescissions		(−555,000)	(−555,000)
	Rescission of emergency appropriations		(−90,000)	(−90,000)
	Total, Title I	12,048,005	14,231,264	+2,183,259
	Appropriations		(555,000)	(+555,000)
	Emergency appropriations, fiscal year 2008	(8,008,843)	(10,424,664)	(+2,415,821)
	Advance appropriation, fiscal year 2009 (emergency)	(4,039,162)	(3,896,600)	(−142,562)
	Rescissions		(−555,000)	(−555,000)
	Rescission of emergency appropriations		(−90,000)	(−90,000)
	TITLE II			
	DOMESTIC MATTERS			
	CHAPTER 1			
	DEPARTMENT OF HEALTH AND HUMAN SERVICES			
	Food and Drug Administration			
	Salaries and expenses (emergency)		265,000	+265,000
	Buildings and facilities (emergency)		10,000	+10,000
	Total, Chapter 1		275,000	+275,000
	Chapter 2			
	DEPARTMENT OF COMMERCE			
	Bureau of the Census			
	Periodic Censuses and programs (emergency)		210,000	+210,000
	DEPARTMENT OF JUSTICE			
	United States Marshals Service			
	Salaries and expenses (emergency)		50,000	+50,000
	Federal Prison System			
	Salaries and expenses (emergency)		178,000	+178,000
	Office of Justice Programs			
	State and Local Law Enforcement Assistance (emergency)		590,000	+590,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

[In thousands of dollars]

Doc. No.		Supplemental estimate	Committee recommendation	Committee recommendation compared with supplemental estimate (+ or −)
	Total, Department of Justice		818,000	+818,000
	SCIENCE			
	National Aeronautics and Space Administration			
	Return to Flight (emergency)		200,000	+200,000
	National Science Foundation			
	Research and related agencies (emergency)		150,000	+150,000
	Education and human resources (emergency)		50,000	+50,000
	Total, National Science Foundation		200,000	+200,000
	Total, Chapter 2		1,428,000	+1,428,000
	Chapter 3			
	DEPARTMENT OF ENERGY			
	Energy Programs			
	Non-defense environmental clean up (emergency)		5,000	+5,000
	Uranium enrichment decontamination and decommissioning fund (emergency)		52,000	+52,000
	Science (emergency)		100,000	+100,000
	Total, Energy Programs		157,000	+157,000
	Atomic Energy Defenses Activities			
	Defenses environmental cleanup (emergency)		243,000	+243,000
	Total, Chapter 3		400,000	+400,000
	Chapter 4			
	General Provision			
	Sec. 2401 Small Business Administration (emergency)		600	+600
	Total, Chapter 4		600	+600
	Chapter 5			
	DEPARTMENT OF THE INTERIOR			
	General Provisions			
	Secure Rural Schools (emergency)		400,000	+400,000
	Total, Chapter 5		400,000	+400,000
	Chapter 6			
	DEPARTMENT OF LABOR			
	Employment and Training Administration			
	State Unemployment Insurances and Employment Service Operations (emergency)		110,000	+110,000
	DEPARTMENT OF HEALTH AND HUMAN SERVICES			
	Centers for Disease Control and Prevention			
	Disease control, research and training (emergency)		26,000	+26,000
	National Institutes of Health			
	Office of the Director (emergency)		400,000	+400,000
	Total, Department of Health and Human Services		426,000	+426,000
	General Provisions			
	Sec. 2601 LIHEAP (emergency)		1,000,000	+1,000,000
	Total, Chapter 6		1,536,000	+1,536,000
	Chapter 7			
	American Battle Monuments Commission			
	Foreign currency fluctuation account (emergency)		10,000	+10,000
	Total, Chapter 7		10,000	+10,000
	Total, Title II		4,049,600	+4,049,600
	TITLE III			
	HURRICANES KATRINA AND RITA, AND OTHER NATURAL DISASTERS			
	Chapter 1			
	DEPARMENT OF AGRICULTURE			
	Farm Service Agency			
	Emergency Conservation Program (emergency)		49,413	+49,413
	Natural resources Conservation Service			
	Emergency Watershed Protection Program (emergency)		130,464	+130,464
	General Provisions			
	Sec. 3101 RUS/Rural Electric and Telecommunication Loans (emergency)		1,000	+1,000
	(Rescission of emergency appropriations)		−1,000	−1,000
	Total, General Provisions			
	Total, Chapter 1		179,877	+179,877
	Emergency appropriations, fiscal year 2008		(180,877)	(+180,877)
	Rescission of emergency appropriations		(−1,000)	(−1,000)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

[In thousands of dollars]

Doc. No.		Supplemental estimate	Committee recommendation	Committee recommendation compared with supplemental estimate (+ or −)
	Chapter 2			
	DEPARTMENT OF COMMERCE			
	Economic Development Administration			
	Economic Development Assistance Programs (emergency)		75,000	+75,000
	National Oceanic and Atmospheric Administration			
	Operations, research and facilities (emergency)		75,000	+75,000
	Total, Department of Commerce		150,000	+150,000
	DEPARTMENT OF JUSTICE			
	Office of Justice Programs			
	State and Local Law Enforcement Assistance (emergency)		75,000	+75,000
	Total, Chapter 2		225,000	+225,000
	Chapter 3			
	DEPARTMENT OF DEFENSE—CIVIL			
	DEPARTMENT OF THE ARMY			
	Corps of Engineers			
	Construction, General (emergency)		66,600	+66,600
110–84	Advance appropriation, fiscal year 2009 (emergency)	2,835,000	4,966,745	+2,131,745
	Mississippi river and tributaries (emergency)		17,700	+17,700
	Operations and Maintenance (emergency)		338,800	+338,800
	Flood Control and Coastal Emergencies (emergency)		94,400	+94,400
110–84	Advance appropriation, fiscal year 2009 (emergency)	2,926,000	3,274,000	+348,000
	General expenses (emergency)		1,500	+1,500
	Total, Chapter 3	5,761,000	8,759,745	+2,998,745
	Emergency appropriations, fiscal year 2008		(519,000)	(+519,000)
	Advance appropriation, fiscal year 2009 (emergency)	(5,761,000)	(8,240,745)	(+2,479,745)
	Chapter 6			
	DEPARTMENT OF THE INTERIOR			
	Bureau of Land Management			
	Wildland fire management (emergency)		125,000	+125,000
	National Park Service			
	Historic Preservation fund (emergency)		15,000	+15,000
	Total, Department of the Interior		140,000	+140,000
	ENVIRONMENTAL PROTECTION AGENCY			
	State and tribal assistance grants (emergency)		5,000	+5,000
	DEPARMENT OF AGRICULTURE			
	Forest Service			
	Wildland fire management (emergency)		325,000	+325,000
	Total, Chapter 6		470,000	+470,000
	Chapter 7			
	DEPARTMENT OF HEALTH AND HUMAN SERVICES			
	Centers for Medicare and Medicaid Services			
	Centers for Medicare and Medicaid Services (emergency)		350,000	+350,000
	Total, Chapter 7		350,000	+350,000
	Chapter 8			
	DEPARTMENT OF DEFENSE			
	Military Construction Army National Guard (emergency)		11,503	+11,503
	(Rescission of emergency appropriations)		−7,000	−7,000
	Total, Military Construction		4,503	+4,503
	General Provision			
	Sec. 3801 Family Housing, Navy (emergency)		10,500	+10,500
	Total, Chapter 8		15,003	+15,003
	Emergency appropriations		(22,003)	(+22,003)
	Rescission of emergency appropriations		(−7,000)	(−7,000)
	Chapter 9			
	DEPARTMENT OF TRANSPORTATION			
	Federal-aid Highways			
	Emergency Highway Relief Program (emergency)		451,126	+451,126
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT			
	Permanent Supportive Housing (emergency)		73,000	+73,000
	Housing transition assistance (emergency)		3,000	+3,000
	Project-based rental assistance (emergency)		20,000	+20,000
	Communuity Development Block Fund (emergency)		50,000	+50,000
	Louisiana Road Home (rescission of emergency funds)		−200,000	−200,000
	Total, Department of Housing and Urban Development		−54,000	−54,000
	Total, Chapter 9		397,126	+397,126
	Emergency appropriations, fiscal year 2008		(597,126)	(+597,126)
	Rescissions of emergency funding		(−200,000)	(−200,000)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

[In thousands of dollars]

Doc. No.		Supplemental estimate	Committee recommendation	Committee recommendation compared with supplemental estimate (+ or −)
	Total, Title III	5,761,000	10,396,751	+4,635,751
	Emergency appropriations, fiscal year 2008		(2,364,006)	(+2,364,006)
	Advance appropriation, fiscal year 2009 (emergency)	(5,761,000)	(8,240,745)	(+2,479,745)
	Rescission of emergency appropriations		(−208,000)	(−208,000)
	TITLE IV			
	VETERANS EDUCATIONAL ASSISTANCE			
	DEPARTMENT OF VETERANS AFFAIRS			
	Veterans Benefits Administration			
	Readjustment benefits (emergency)		40,000	+40,000
	Advance appropriation, fiscal year 2009 (emergency)		677,000	+677,000
	Total, Title IV		717,000	+717,000
	Emergency appropriations, fiscal year 2008		(40,000)	(+40,000)
	Advance appropriation, fiscal year 2009 (emergency)		(677,000)	(+677,000)
	TITLE V			
	EMERGENCY UNEMPLOYMENT COMPENSATION			
	DEPARTMENT OF LABOR			
	Emergency unemployment compensation (emergency)		6,170,000	+6,170,000
	Advance appropriation, fiscal year 2009 (emergency)		9,440,000	+9,440,000
	Total, Title V		15,610,000	+15,610,000
	Emergency appropriations, fiscal year 2008		(6,170,000)	(+6,170,000)
	Advance appropriation, fiscal year 2009 (emergency)		(9,440,000)	(+9,440,000)
	TITLE VI			
	OTHER HEALTH MATTERS			
	DEPARTMENT OF HEALTH AND HUMAN SERVICES			
	Medicaid, Medicare and SCHIP provisions (emergency)		530,000	+530,000
	Advance appropriation, fiscal year 2009 (emergency)		1,225,000	+1,225,000
	Total, Title VI		1,755,000	+1,755,000
	Emergency appropriations, fiscal year 2008		(530,000)	(+530,000)
	Advance appropriation, fiscal year 2009 (emergency)		(1,225,000)	(+1,225,000)
	TITLE XI			
	DEFENSE MATTERS			
	CHAPTER 1			
	DEFENSE SUPPLEMENTAL APPROPRIATIONS FOR			
	FISCAL YEAR 2008			
	DEPARTMENT OF DEFENSE—MILITARY			
	Military Personnel			
110–3, 110–68	Military Personnel, Army (emergency)	11,535,055	12,216,715	+681,660
110–3, 110–68	Military Personnel, Navy (emergency)	696,053	894,185	+198,132
110–3, 110–68	Military Personnel, Marine Corps (emergency)	1,733,971	1,826,688	+92,717
110–3, 110–68	Military Personnel, Air Force (emergency)	1,277,853	1,355,544	+77,691
110–3, 110–68	Reserve Personnel, Army (emergency)	299,200	304,200	+5,000
110–3	Reserve Personnel, Navy (emergency)	70,000	72,800	+2,800
110–3	Reserve Personnel, Marine Corps (emergency)	15,420	16,720	+1,300
110–3	Reserve Personnel, Air Force (emergency)	3,000	5,000	+2,000
110–3, 110–68	National Guard Personnel, Army (emergency)	1,136,747	1,369,747	+233,000
	National Guard Personnel, Air Force (emergency)		4,000	+4,000
	Total, Military Personnel	16,767,299	18,065,599	+1,298,300
	Operation and Maintenance			
110–3 ,110–54, 110–68	Operation & Maintenance, Army (emergency)	18,712,468	17,223,512	−1,488,956
110–3, 110–54, 110–68	Operation & Maintenance, Navy (emergency)	2,498,765	2,977,864	+479,099
	(Transfer out) (emergency)	(−115,400)	(−112,607)	(+2,793)
110–3, 110–54, 110–68	Operation & Maintenance, Marine Corps (emergency)	306,050	159,900	−146,150
110–3, 110–54, 110–68	Operation & Maintenance, Air Force (emergency)	5,924,865	5,972,520	+47,655
110–3, 110–54, 110–68	Operation & Maintenance, Defense-Wide (emergency)	3,152,933	3,657,562	+504,629
110–3, 110–68	Operation & Maintenance, Army Reserve (emergency)	118,958	164,839	+45,881
110–3, 110–68	Operation & Maintenance, Navy Reserve (emergency)	41,750	109,876	+68,126
110–3, 110–68	Operation & Maintenance, Marine Corps Reserve (emergency)	22,040	70,256	+48,216
110–3, 110–68	Operation & Maintenance, Air Force Reserve (emergency)	12,133	165,994	+153,861
110–3, 110–68	Operation & Maintenance, Army National Guard (emergency)	430,008	685,644	+255,636
110–3, 110–68	Operation & Maintenance, Air National Guard (emergency)	51,633	287,369	+235,736
	Subtotal, Operation and Maintenance	31,271,603	31,475,336	+203,733
110–3, 110–68	Iraq Freedom Fund (emergency)	207,500	50,000	−157,500
110–68	Afghanistan Security Forces Fund (emergency)	1,350,000	1,400,000	+50,000
110–3, 110–68	Iraq Security Forces Fund (emergency)	1,500,000	1,500,000	
	Subtotal, Other	3,057,500	2,950,000	−107,500
	Total, Operation and Maintenance	34,329,103	34,425,336	+96,233
	Procurement			
110–3, 110–68	Aircraft Procurement, Army (emergency)	1,181,864	954,111	−227,753
110–3, 110–68	Missile Procurement, Army (emergency)	641,764	561,656	−80,108
110–3, 110–68	Procurement of Weapons and Tracked Combat Vehicles, Army (emergency)	5,860,252	5,463,471	−396,781
110–3, 110–68	Procurement of Ammunition, Army (emergency)	359,600	344,900	−14,700
110–3, 110–54, 110–68	Other Procurement, Army (emergency)	21,103,261	16,337,340	−4,765,921
110–3, 110–68	Aircraft Procurement, Navy (emergency)	3,859,958	3,563,254	−296,704
110–3, 110–68	Weapons Procurement, Navy (emergency)	318,281	317,456	−825
110–3, 110–68	Procurement of Ammunition, Navy and Marine Corps (emergency)	304,945	304,945	
110–3, 110–54, 110–68	Other Procurement, Navy (emergency)	1,515,116	1,399,135	−115,981
110–3, 110–54, 110–68	Procurement, Marine Corps (emergency)	2,444,490	2,197,390	−247,100
110–3, 110–68	Aircraft Procurement, Air Force (emergency)	3,894,839	7,103,923	+3,209,084
110–3	Missile Procurement, Air Force (emergency)	1,800	66,943	+65,143

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

[In thousands of dollars]

Doc. No.		Supplemental estimate	Committee recommendation	Committee recommendation compared with supplemental estimate (+ or −)
110–3, 110–68	Procurement of Ammunition, Air Force (emergency)	104,405	205,455	+101,050
110–3, 110–54, 110–68	Other Procurement, Air Force (emergency)	2,405,034	1,953,167	−451,867
110–3, 110–54, 110–68	Procurement, Defense-Wide (emergency)	266,237	408,209	+141,972
	National Guard and Reserve Equipment (emergency)		825,000	+825,000
110–68	Rapid Acquisition Fund	150,000		−150,000
	Total, Procurement	44,411,846	42,006,355	−2,405,491
	Research, Development, Test and Evaluation			
110–3, 110–54, 110–68	Research, Development, Test & Evaluation, Army (emergency)	163,299	162,958	−341
110–3, 110–54, 110–68	Research, Development, Test & Evaluation, Navy (emergency)	610,567	366,110	−244,457
110–3, 110–68	Research, Development, Test & Evaluation, Air Force (emergency)	1,487,493	399,817	−1,087,676
110–3, 110–68	Research, Development, Test and Evaluation, Defense-Wide (emergency)	684,389	816,598	+132,209
	Total, Research, Development, Test and Evaluation	2,945,748	1,745,483	−1,200,265
	Revolving and Management Funds			
110–3, 110–68	Defense Working Capital Funds (emergency)	957,675	1,837,450	+879,775
110–3	National Defense Sealift Fund (emergency)	5,110	5,110	
	Total, Revolving and Management Funds	962,785	1,842,560	+879,775
	Other Department of Defense Programs			
110–3, 110–68	Defense Health Program (emergency)	561,741	1,413,864	+852,123
110–3, 110–68	Operation and maintenance (emergency)	(561,741)	(957,064)	(+395,323)
	Procurement (emergency)		(91,900)	(+91,900)
	Research Development and Testing (emergency)		(364,900)	(+364,900)
	Psychological health and traumatic brain injury (emergency)		75,000	+75,000
110–3	Drug Interdiction and Counter-Drug Activities, Defense (emergency)	65,017	65,317	+300
110–3	Office of the Inspector General (emergency)	4,394	6,394	+2,000
	Total, Other Department of Defense Programs	631,152	1,560,575	+929,423
	General Provisions			
	Sec. 11103 Additional transfer authority (emergency)		(2,500,000)	(+2,500,000)
110–3	Sec. 11105 Defense Cooperation Account (transfer authority) (emergency)	6,500	6,500	
	Total, General Provisions	6,500	6,500	
	Total, Chapter 1	100,054,433	99,652,408	−402,025
	(Emergency appropriations)	(100,054,433)	(99,652,408)	(−402,025)
	(Rescission of emergency appropriations)			
	(Additional transfer authority, emergency)		(2,500,000)	(+2,500,000)
	Chapter 2			
	DEFENSE BRIDGE FUND APPROPRIATIONS FOR FISCAL YEAR 2009			
	DEPARTMENT OF DEFENSE—MILITARY			
	Military Personnel			
110–108	Military Personnel, Army (emergency)	3,500,000	839,000	−2,661,000
110–108	Military Personnel, Navy (emergency)	95,000	75,000	−20,000
110–108	Military Personnel, Marine Corps (emergency)	85,000	55,000	−30,000
110–108	Military Personnel, Air Force (emergency)	105,000	75,000	−30,000
110–108	National Guard Personnel, Army (emergency)	20,000	150,000	+130,000
	Total, Military Personnel	3,805,000	1,194,000	−2,611,000
	Operation and Maintenance			
110–108	Operation & Maintenance, Army (emergency)	35,560,055	37,300,000	+1,739,945
110–108	Operation & Maintenance, Navy (emergency)	238,437	3,500,000	+3,261,563
110–108	(Transfer out) (emergency)	(−200,000)	(−112,000)	(+88,000)
110–108	Operation & Maintenance, Marine Corps (emergency)	2,200,000	2,900,000	+700,000
110–108	Operation & Maintenance, Air Force (emergency)	3,644,078	5,000,000	+1,355,922
110–108	Operation & Maintenance, Defense-Wide (emergency)	3,193,494	2,648,569	−544,925
	Operation & Maintenance, Army Reserve (emergency)		79,291	+79,291
	Operation & Maintenance, Navy Reserve (emergency)		42,490	+42,490
110–108	Operation & Maintenance, Marine Corps Reserve (emergency)	34,000	47,076	+13,076
	Operation & Maintenance, Air Force Reserve (emergency)		12,376	+12,376
	Operation & Maintenance, Army National Guard (emergency)		333,540	+333,540
	Operation & Maintenance, Air National Guard (emergency)		52,667	+52,667
	Subtotal, Operation and Maintenance	44,870,064	51,916,009	+7,045,945
110–108	Afghanistan Security Forces Fund (emergency)	3,666,259	2,000,000	−1,666,259
110–108	Iraq Security Forces Fund (emergency)	2,000,000	1,000,000	−1,000,000
	Total, Operation and Maintenance	50,536,323	54,916,009	+4,379,686
	Procurement			
	Aircraft Procurement, Army (emergency)		84,000	+84,000
	Procurement of Weapons and Tracked Combat Vehicles, Army (emergency)		822,674	+822,674
	Procurement of Ammunition, Army (emergency)		46,500	+46,500
110–108	Other Procurement, Army (emergency)	80,536	1,009,050	+928,514
	Other Procurement, Navy (emergency)		27,948	+27,948
	Procurement, Marine Corps (emergency)		565,425	+565,425
110–108	Aircraft Procurement, Air Force (emergency)	1,209,300	201,842	−1,007,458
110–108	Other Procurement, Air Force (emergency)	1,467,475	1,500,644	+33,169
110–108	Procurement, Defense-Wide (emergency)	72,733	177,237	+104,504
110–108	Rapid Acquisition fund (emergency)	100,000		−100,000
	Total, Procurement	2,930,044	4,435,320	+1,505,276
	Research, Development, Test and Evaluation			
110–108	Research, Development, Test & Evaluation, Navy (emergency)	113,228	113,228	
110–108	Research, Development, Test & Evaluation, Air Force (emergency)	71,741	72,041	+300
110–108	Research, Development, Test and Evaluation, Defense-Wide (emergency)	194,156	202,559	+8,403
	Total, Research, Development, Test and Evaluation	379,125	387,828	+8,703
	Revolving and Management Funds			
110–108	Defense Working Capital Funds (emergency)	2,200,000		−2,200,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

[In thousands of dollars]

Doc. No.		Supplemental estimate	Committee recommendation	Committee recommendation compared with supplemental estimate (+ or −)
	Other Department of Defense Programs			
110–108	Defense Health Program (emergency)	400,000	1,100,000	+700,000
110–108	Drug Interdiction and Counter-Drug Activities, Defense (emergency)	130,000	188,000	+58,000
110–108	Joint Improvised Explosive Device Defeat fund (emergency)	2,970,444	2,000,000	−970,444
	Total, Other Department of Defenses Programs	3,500,444	3,288,000	−212,444
	General Provisions			
110–108	Sec. 11203 Transfer authority	(4,000,000)	(4,000,000)	
110–108	Sec. 11208 Mine Resistant Ambush Protected Vehicle fund (emergency)	2,610,000	1,700,000	−910,000
	Total, General Provisions	2,610,000	1,700,000	−910,000
	Total, Chapter 2	65,960,936	65,921,157	−39,779
	Chapter 3			
	General Provision			
	Sec. 11308 rescission of emergency appropriations		−146,531	−146,531
	Total, Title XI	166,015,369	165,427,034	−588,335
	Emergency appropriations, fiscal year 2008	(100,054,433)	(99,652,408)	(−402,025)
	Advance appropriation, fiscal year 2009 (emergency)	(65,960,936)	(65,921,157)	(−39,779)
	Rescission of emergency appropriations		(−146,531)	(−146,531)
	(Additional transfer authority, emergency)		(2,500,000)	(+2,500,000)
	Grand total	183,824,374	212,186,649	+28,362,275
	Appropriations, fiscal year 2008		(555,000)	(+555,000)
	Emergency appropriations, fiscal year 2008	(108,063,276)	(123,230,678)	(+15,167,402)
	Advance appropriation, fiscal year 2009 (emergency)	(75,761,098)	(89,400,502)	(+13,639,404)
	Rescissions		(−555,000)	(−555,000)
	Rescission of emergency appropriations		(−444,531)	(−444,531)
	(Additional transfer authority, emergency)		(2,500,000)	(+2,500,000)
	(Transfer out)			
	(Transfer out) (emergency)	(−115,400)	(−112,607)	(+2,793)

BROADCAST MEDIA OWNERSHIP

Mr. KYL. Madam President, the current newspaper-broadcast cross-ownership rule prohibits the coownership of a newspaper and a broadcast station in the same market. This rule is the only local ownership rule that has not been modified by the Federal Communications Commission, FCC, since the ownership rules went into place over 30 years ago. Despite massive innovation in the media marketplace, the advocates of S.J. Res. 28, the Dorgan resolution, want to preserve an archaic rule that is no longer relevant or useful in today's media world.

On December 18, 2007, the FCC issued an order to provide a modest relaxation of the newspaper-broadcast cross-ownership prohibition in the top 20 markets. To ensure that one company doesn't control the local media, the prohibition is only relaxed if there are eight independent television stations in the market. The rule change only applies to the acquisition of a television station not ranking in the top four in any market, which essentially excludes network affiliated stations. The FCC's order further mandates that all proposed newspaper-broadcast combinations be reviewed by the Commission on a case-by-case basis with the opportunity for public comment. Simply put, the new FCC rule provides a modest relief in a limited number of markets and ensures that any changes are carefully scrutinized.

After 18 months of review and more than 150,000 filed comments, 10 empirical studies, and 6 field hearings, the FCC fully vetted its decision to relax the newspaper-broadcast cross-ownership rule. It determined that the ''harm'' envisioned by cross-ownership is directly contradicted by simple facts. Currently, there are a number of newspaper-broadcast station ownership combinations that are exempt from the ban through grandfathers and waivers. These combinations have served the needs of the local communities well.

The FCC also found that the ban on newspaper-broadcast combinations was established at a time when communications in any town consisted of a newspaper and, at best, a handful of local television and radio stations. The rule is antiquated in today's media world where there are multiple sources of news and viewpoints, such as the Internet, satellite radio, blogs, cable, and other forms of communication.

Finally, upholding the ban would also largely ignore the dire financial condition of the newspaper industry. Due to the multiple news and information outlets available to consumers, local newspapers are finding it harder to make a profit. What is at stake here is the long-term health of newspapers and their ability to provide the kind of journalism that has served our democratic society well for more than 200 years. Permitting cross-ownership with broadcast stations allows greater financial efficiency in the market, allowing some newspapers to survive.

For all of these reasons, I will not support the Dorgan resolution. The FCC's narrow rule will not lead to mass consolidation, and I would encourage my colleagues to consider the ramifications of reversing the FCC's order.

NATIONAL POLICE WEEK

Mrs. DOLE. Madam President, I rise to honor those officers from my home State of North Carolina who have lost their lives in the line of duty.

In 1962, President John F. Kennedy signed a proclamation designating May 15 as Peace Officers Memorial Day and the week in which that date falls as National Police Week. During this week, tens of thousands of law enforcement officers come to Washington for events that honor their fallen comrades.

Police officers are our country's first line of defense. They dedicate their lives to making our Nation safer. While our servicemembers are fighting enemies abroad, our law enforcement officers are protecting our cities and towns here at home.

Sometimes this duty calls for the ultimate sacrifice, and, over the past year, North Carolina lost nine heroic officers: Charles Johnson Adcock Callemyn of Durham; Jason Christian Campbell of Greenville; Sean Robert Clark of Charlotte; James Heath Hardin of Hope Mills; Howard Joseph Plouff II of Winston-Salem; Jeffry Ryan Shelton of Charlotte; Alan Christopher Silver of Rocky Mount; Shawn Joshua Dean Williams of Old Fort; and Bobby Lee Cox of Burke County.

North Carolina, and indeed the whole country, is forever indebted to these and all of the Nation's police officers who have lost their lives in the line of duty. May God bless the families of these brave men and women and comfort them with the fact that their loved one's service has made America a better, safer place.

ARMED FORCES DAY

Mr. MARTINEZ. Madam President, over the course of this Nation's history, generations of Americans have made tremendous sacrifices to protect the freedoms we hold dear. Every May, we honor these courageous Americans on Armed Forces Day.

Just a few years after the close of World War II, President Harry S. Truman led the effort for this holiday. It was at the end of August, 1949, that Secretary of Defense Louis Johnson announced the creation of Armed Forces Day to replace separate days of celebration for the Army, Navy, Marine Corps, and Air Force.

This is a day for all of us as Americans to come together to recognize our brave military men and women for their service, sacrifice, and dedication to our Nation. On this Armed Forces Day, we are reminded of the important contributions our service men and women are currently making overseas to help others come to know the freedom we enjoy.

Let us not only remember all of the service men and women who have served our country so bravely, let us appreciate those serving at home and their families who sacrifice so much. On this day we thank members of our military for their selfless dedication to working everyday to protect our liberty and freedom.

As the home to more than 20 military installations and nearly 2 million veterans, this past Saturday was a proud day for many Floridians. I salute all those who have given up so much for our Nation, and express my tremendous gratitude for their service.

HONORING OUR ARMED FORCES

SERGEANT ISAAC PALOMAREZ

Mr. SALAZAR. Madam President, I rise today to honor the life of Army Sergeant Isaac Palomarez of Loveland, CO. Sergeant Palomarez was killed last Friday in Kapisa Province, Afghanistan. He and his unit were working to root out Taliban cells and insurgent networks when his patrol ran across a roadside bomb and was then attacked with grenades and small arms. Isaac Palomarez was 26 years old.

Those who knew Sergeant Palomarez describe him as a gifted student, a spirited competitor and successful athlete, and a soldier committed to honoring his country and fulfilling his duty.

He was an honor student at Loveland High School who excelled in math, was an avid reader of military history, and filled his free time with sports. He helped Loveland High School's football team win a State championship in 2000, using his talent, work ethic, and heart to outcompete opponents who outweighed him by 50 or a hundred pounds.

After graduating from high school in 2001, Isaac took classes at Colorado State University, but was uncertain about which path to choose. In 2004, sensing a responsibility to serve his country and his community, he enlisted in the Army, following in the footsteps of his father. He was assigned to A Company, 1st Battalion, 506th Infantry Regiment, 101st Airborne Division, out of Fort Campbell, KY.

Sergeant Palomarez's first deployment was to Iraq, in 2005. After a year, he returned safely, in answer to the prayers of his family and friends.

Earlier this year he deployed again, this time to Afghanistan. Kapisa Province, in northwest Afghanistan, remains an outpost for Taliban and insurgent forces, and is a strategic link between the border regions and Afghanistan's capital, Kabul. Sergeant Palomarez was working with his unit and coalition forces to deny extremists a foothold in this critical area. It was a dangerous mission in an unforgiving place.

Sergeant Palomarez served in the finest tradition of America's soldiers. He was professional, compassionate, and committed to his country, community, and family. Shortly before he was killed, he borrowed a cell phone from another soldier, called his mother, and wished her a happy Mother's Day in advance. It was the last time he spoke with his family—news of Isaac's death reached his family before Mother's Day arrived.

The sense of duty and purpose that inspired Sergeant Palomarez's service is fundamental to our Nation's liberty and our democracy. The strength of our union stems from the willingness of American citizens to work and fight for the rights and freedoms of others, no matter the danger or the cost.

This was the message that William Allen White, the famous newspaper editor, delivered to Northwestern University graduates in 1936 as the specter of fascism loomed over Europe and Asia. ''Liberty, if it shall cement man into political unity,'' said White, ''must be something more than a man's conception of his rights, much more than his desire to fight for his own rights. True liberty is founded upon a lively sense of the rights of others and a fighting conviction that the rights of others must be maintained. Only when a people have this love of liberty, this militant belief in the sacredness of another man's self-respect, do races and nations possess the catalyzer in their political and social organism which produces the chemical miracle of crystallized national unity and strength. We Americans have had it for three hundred years on this continent. It was in the blood of our fathers. It was the basis of our faith in humanity when we wrote our constitution.''

In Isaac Palomarez's honorable service we find the same love of liberty that has bound our union, generation after generation. In his courage and commitment to helping others, we are inspired to a greater faith in humanity. And in his sacrifice, we are humbled and indebted.

To Sergeant Palomarez's parents, Elma and Candido, to his three older brothers, and to all his friends and family, I know no words that can assuage the pain you feel. I hope that in time your grief will give way to the pride you must feel for your son, to the joy that he stirred among those who knew him, and to the knowledge that his country will always honor his legacy. He will never be forgotten.

ADDITIONAL STATEMENTS

RECOGNIZING CHARLES RUCH

• Mr. JOHNSON. Madam President, I wish to recognize the contributions of Dr. Charles Ruch to my home State of South Dakota.

I have known Dr. Ruch since he became president of the South Dakota School of Mines and Technology in 2003. During his tenure, technology, innovation, and collaboration were continually the focus, and the School of Mines and the students there are the beneficiaries of Dr. Ruch's commitment to this vision. Dr. Ruch was instrumental in bringing the School of Mines and the community together to increase opportunities for research, scholarship, and economic development in Rapid City and across the State of South Dakota.

Dr. Ruch's emphasis on collaboration led to the Black Hills Development Center being located on the campus and the campus coming together to achieve the goals that were established in the Strategic Agenda of the School of Mines. I was consistently impressed by his love of the school, as well as his desire to improve programs and research opportunities for students and professors. Dr. Ruch is leaving the School of Mines just as funding commitments have been made to support the new Chemical and Biological Engineering building. The new building was one of the School of Mines' goals when Dr. Ruch arrived in 2003, and it is only fitting that the project is being realized as Dr. Ruch retires. As South Dakota established the Sanford Laboratory and we work with the National Science Foundation to establish a Deep Underground Science Laboratory, Dr. Ruch leaves the South Dakota School of Mines well-equipped to partner in these research projects.

Dr. Ruch has been an exceptional partner in improving collegiate opportunities in my home State and constantly sought new innovative programs, research grants, and post-graduate opportunities for students at the School of Mines. I would like to thank Dr. Ruch for his excellent service to students, the school, and the State of South Dakota. We all congratulate him on a very successful 5 years. His vision and enthusiasm for the South Dakota School of Mines and Technology will be sorely missed.•

TRIBUTE TO KENNETH L. TYSON

• Mr. LAUTENBERG. Madam President, I wish to pay tribute to Kenneth

L. Tyson for his dedication to the health care profession. Ken is a true leader, and his commitment to Newark Beth Israel Medical Center is more than worthy of recognition.

Ken began his career at Newark Beth Israel Medical Center in March 1965 as a medical technologist in the laboratory. He worked his way up the ranks and in 1990 was promoted to his current position, senior vice president of operations. Under his direction, Newark Beth Israel Medical Center has enjoyed a consistently prestigious record of contributions to the medical field. It is one of the largest hospitals in New Jersey and provides unique and highly specialized services including heart transplants, kidney transplants, lung transplants, neonatal and pediatric critical care. For over 43 years, Ken has enjoyed a distinguished reputation among his peers within the New Jersey hospital industry, the Saint Barnabas Health Care System and the Newark Beth Israel Medical Center family.

Ken Tyson is a 1965 graduate of Rutgers, the State University of New Jersey, with a bachelor of science in medical technology. He then earned a master's degree in business administration from the Rutgers Graduate School of Business in 1977. Ken also served his alma mater as an adjunct instructor in the medical technology program for 9 years and later taught clinical laboratory sciences at the University of Medicine and Dentistry of New Jersey for over 19 years. He is currently affiliated with the American College of Health Care Executives and the American Society of Clinical Pathology.

Ken has dedicated his long and illustrious career to improving health care services for the residents of New Jersey and beyond. On behalf of my home State, I am honored to express my gratitude and congratulations to Kenneth L. Tyson and extend my best wishes for a long and happy retirement with his wife Ophelia and his two children and four grandchildren.●

BLACKSTONE VALLEY TOURISM COUNCIL

● Mr. REED. Madam President, last week was National Tourism Week, established by Congress in 1983 and celebrated annually since May 1984. To mark this 25th celebration, I would like to recognize the accomplishments of the Blackstone Valley, which recently won international recognition for its sustainable tourism program.

Last month, the World Travel and Tourism Council recognized only one destination in America, the Blackstone Valley of Rhode Island and Massachusetts, with the Destination Award for 2008. This honor was bestowed upon the Blackstone Valley Tourism Council to recognize the organization's trailblazing destination stewardship approach to tourism development, including its work to preserve the area's natural, cultural, and historical heritage.

At the heart of the valley is the Blackstone River, which runs from Worcester, MA, to Providence, RI. The river's waters once powered the Slater Mill in Pawtucket, which was America's first successful textile mill and the birthplace of the Industrial Revolution in this country. While this transition from farm to factory brought many years of prosperity, by the 1970s, the valley's economy had declined as industry moved on from the area, leaving behind a tarnished facade and environmental damage.

Today, thanks to the coordinated efforts of the Blackstone Corridor Commission, the National Park Service, the Blackstone Valley Tourism Council, businesses, environmental organizations, 24 municipalities, and the States of Rhode Island and Massachusetts, the valley has made a remarkable resurgence as a living landscape of natural and historic treasures.

The Blackstone Valley Tourism Council has shown that eco-friendly tourism can revitalize a weakened economy, restore natural surroundings, and revive residents' pride in their communities. Through innovative programs like the Sustainable Tourism Development and Planning Laboratory, the tourism council has created a model for destinations around the country to follow. It is a notable achievement for any river to be at the center of a revolution; but it is a rare feat for the Blackstone River to have spawned two.

I congratulate the people of the Blackstone Valley and the Tourism Council for spearheading an economic redevelopment strategy that has made great strides in improving the quality of life in the area.●

REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY THAT WAS ORIGINALLY DECLARED IN EXECUTIVE ORDER 13047 OF MAY 20, 1997, WITH RESPECT TO BURMA, AS RECEIVED DURING ADJOURNMENT OF THE SENATE ON MAY 16, 2008—PM 49

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. I have sent the enclosed notice to the *Federal Register* for publication, stating that the Burma emergency is to continue beyond May 20, 2008.

The crisis between the United States and Burma arising from the actions and policies of the Government of Burma, including its engaging in large-scale repression of the democratic opposition in Burma, that led to the declaration of a national emergency on May 20, 1997, and its expansion on October 18, 2007, and April 30, 2008, has not been resolved. These actions and policies are hostile to U.S. interests and pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, I have determined that it is necessary to continue the national emergency with respect to Burma and maintain in force the sanctions against Burma to respond to this threat. This action does not inhibit any efforts on the part of the United States to provide humanitarian assistance to the people of Burma in the aftermath of Cyclone Nargis.

GEORGE W. BUSH.

THE WHITE HOUSE, *May 16, 2008*.

MESSAGES FROM THE HOUSE

At 3:03 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 331. Concurrent resolution supporting the goals and ideals of National Women's Health Week, and for other purposes.

At 5:26 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 406. An act to award a congressional gold medal in recognition of Alice Paul's role in the women's suffrage movement and in advancing equal rights for women.

H.R. 2894. An act to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the ''Star Spangled Banner'' and the War of 1812, and for other purposes.

H.R. 5614. An act to authorize the production in palladium of Saint-Gaudens Double Eagle coins as ultra-high relief numismatic coins and bullion investment coins in order to provide affordable opportunities for investments in precious metals, and for other purposes.

H.R. 5834. An act to amend the North Korean Human Rights Act of 2004 to promote respect for the fundamental human rights of the people of North Korea, and for other purposes.

H.R. 5872. An act to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the Boy Scouts of America, and for other purposes.

H.R. 5916. An act to reform the administration of the Arms Export Control Act, and for other purposes.

At 5:40 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has agreed to the following concurrent resolution:

H. Con. Res. 354. Concurrent resolution recognizing the 100th birthday of Lyndon Baines

Johnson, 36th President, designer of the Great Society, politician, educator, and civil rights enforcer.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 406. An act to award a congressional gold medal in recognition of Alice Paul's role in the women's suffrage movement and in advancing equal rights for women to the Committee on Banking, Housing, and Urban Affairs.

H.R. 2894. An act to require the Secretary of the Treasury to mint coins to commemoration of the bicentennial of the writing of the ''Star Spangled Banner'' and the War of 1812, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 5614. An act to authorize the production in palladium of Saint-Gaudens Double Eagle coins as ultra-high relief numismatic coins and bullion investment coins in order to provide affordable opportunities for investments in precious metals, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 5834. An act to amend the North Korean Human Rights Act of 2004 to promote respect for the fundamental human rights of the people of North Korea, and for other purposes; to the Committee on Foreign Relations.

H.R. 5872. An act to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the Boy Scouts of America; and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 5916. An act to reform the administration of the Arms Export Control Act, and for other purposes; to the Committee on Foreign Relations.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 331. Concurrent resolution supporting the goals and ideals of National Women's Health Week, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 354. Concurrent resolution recognizing the 100th birthday of Lyndon Baines Johnson, 36th President, designer of the Great Society, politician, educator, and civil rights enforcer; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on Foreign Relations, with an amendment:

H.R. 3320. A bill to provide assistance for the Museum of the History of Polish Jews in Warsaw, Poland (Rept. No. 110–336).

EXECUTIVE REPORT OF COMMITTEE

The following executive report of a nomination was submitted:

By Mr. LEAHY for the Committee on the Judiciary.

G. Steven Agee, of Virginia, to be United States Circuit Judge for the Fourth Circuit.

Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 3030. A bill to amend the Consolidated Appropriations Act 2008 to provide for the conveyance to the United States of certain non-Federal land to be used by the Secretary of Veterans Affairs for the construction of a veterans medical facility; to the Committee on Veterans' Affairs.

By Mrs. HUTCHISON (for herself, Mr. MCCAIN, Mr. SUNUNU, Ms. COLLINS, Mrs. DOLE, Mr. BARRASSO, Mr. ALLARD, Mr. CORNYN, Mr. DEMINT, Mr. STEVENS, and Mr. ENZI):

S. 3031. A bill to amend the Clean Air Act to limit the use of ethanol to meet the renewable fuel standard, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SCHUMER:

S. 3032. A bill to increase the standard mileage rate for use of an automobile for business, medical, and moving deduction purposes for 2008 and permanently increase such rate for charitable deduction purposes under the Internal Revenue Code of 1986 and to temporarily increase the reimbursement rate for use of an automobile by Federal employees; to the Committee on Finance.

By Mr. CORNYN:

S. 3033. A bill to protect investors by fostering transparency and accountability of attorneys in private securities litigation; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. REID (for Mr. KERRY (for himself and Mr. KENNEDY)):

S. 3034. A bill to protect the interests of bona fide tenants in the case of any foreclosure on any dwelling or residential real property, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. BOXER (for herself, Ms. MURKOWSKI, Mr. BIDEN, Mr. LUGAR, Mr. CASEY, Mr. CARDIN, Mr. FEINGOLD, Mr. KERRY, Mrs. MURRAY, Mr. LIEBERMAN, Mr. DODD, Mr. WHITEHOUSE, Mr. DURBIN, Ms. CANTWELL, Mr. ISAKSON, Mrs. CLINTON, Mr. SANDERS, Mrs. FEINSTEIN, Mr. LEAHY, Mr. OBAMA, and Mr. MENENDEZ):

S. Res. 569. A resolution expressing the sense of the Senate regarding the earthquake that struck Sichuan Province of the People's Republic of China on May 12, 2008; considered and agreed to.

By Mr. VOINOVICH (for himself, Mr. LUGAR, Mr. LIEBERMAN, and Mr. BIDEN):

S. Res. 570. A resolution congratulating Albania and Croatia on being invited to begin accession talks with the North Atlantic Treaty Organization and expressing support for continuing to enlarge the alliance; considered and agreed to.

ADDITIONAL COSPONSORS

S. 170

At the request of Mr. ENSIGN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 170, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications services.

S. 573

At the request of Ms. STABENOW, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 573, a bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the prevention, diagnosis, and treatment of heart disease, stroke, and other cardiovascular diseases in women.

S. 594

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 594, a bill to limit the use, sale, and transfer of cluster munitions.

S. 843

At the request of Ms. COLLINS, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 843, a bill to provide for the establishment of a national mercury monitoring program.

S. 946

At the request of Mr. DURBIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 946, a bill to amend the Farm Security and Rural Investment Act of 2002 to reauthorize the McGovern-Dole International Food for Education and Child Nutrition Program, and for other purposes.

S. 1159

At the request of Mr. HAGEL, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1159, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part.

S. 1382

At the request of Mr. REID, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1382, a bill to amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

S. 1445

At the request of Mr. KENNEDY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1445, a bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection.

S. 1556

At the request of Ms. CANTWELL, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1556, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes.

S. 1571

At the request of Ms. SNOWE, the name of the Senator from Michigan

(Mr. LEVIN) was added as a cosponsor of S. 1571, a bill to reform the essential air service program, and for other purposes.

S. 1588

At the request of Ms. LANDRIEU, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 1588, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

S. 1755

At the request of Mr. CASEY, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1755, a bill to amend the Richard B. Russell National School Lunch Act to make permanent the summer food service pilot project for rural areas of Pennsylvania and apply the program to rural areas of every State.

S. 1995

At the request of Mr. SALAZAR, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1995, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 2314

At the request of Mr. SALAZAR, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2314, a bill to amend the Internal Revenue Code of 1986 to make geothermal heat pump systems eligible for the energy credit and the residential energy efficient property credit, and for other purposes.

S. 2366

At the request of Mr. VITTER, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2366, a bill to provide immigration reform by securing America's borders, clarifying and enforcing existing laws, and enabling a practical verification program.

S. 2369

At the request of Mr. BAUCUS, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 2369, a bill to amend title 35, United States Code, to provide that certain tax planning inventions are not patentable, and for other purposes.

S. 2504

At the request of Mr. NELSON of Florida, the names of the Senator from Maine (Ms. COLLINS), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Oregon (Mr. SMITH) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 2504, a bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes.

S. 2682

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of S. 2682, a bill to direct United States funding to the United Nations Population Fund for certain purposes.

S. 2760

At the request of Mr. LEAHY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 2760, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the National Guard, enhancement of the functions of the National Guard Bureau, and improvement of Federal-State military coordination in domestic emergency response, and for other purposes.

S. 2771

At the request of Ms. LANDRIEU, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 2771, a bill to require the president to call a White House Conference on Children and Youth in 2010.

S. 2790

At the request of Ms. LANDRIEU, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 2790, a bill to amend title XVIII of the Social Security Act to provide for coverage of comprehensive cancer care planning under the Medicare program and to improve the care furnished to individuals diagnosed with cancer by establishing a Medicare hospice care demonstration program and grants programs for cancer palliative care and symptom management programs, provider education, and related research.

S. 2799

At the request of Mrs. MURRAY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2799, a bill to amend title 38, United States Code, to expand and improve health care services available to women veterans, especially those serving in Operation Iraqi Freedom and Operation Enduring Freedom, from the Department of Veterans Affairs, and for other purposes.

S. 2844

At the request of Mr. LAUTENBERG, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 2844, a bill to amend the Federal Water Pollution Control Act to modify provisions relating to beach monitoring, and for other purposes.

S. 2910

At the request of Ms. SNOWE, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Maine (Ms. COLLINS) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 2910, a bill to require brokers to disclose and pay independent truckers for any fuel surcharges received from shippers that relate to fuel costs paid for by the truckers.

S. 2942

At the request of Mr. CARDIN, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2942, a bill to authorize funding for the National Advocacy Center.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORNYN:

S. 3033. A bill to protect investors by fostering transparency and accountability of attorneys in private securities litigation; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CORNYN. Mr. President, today I am proud to introduce the Securities Litigation Attorney Accountability and Transparency Act. The Bill promotes transparency and court oversight in the selection and compensation of class counsel in securities class action litigation. As a result, this legislation helps to ensure that the lawyer for shareholder plaintiffs in securities class action lawsuits truly and faithfully represents the interests of the entire class, and not just their own interests and those of the large investors who are the lead plaintiffs. It has been said that the lead attorney in a class action suit serves a quasi-governmental role in that he seeks to enforce the law on behalf of a broad group of ordinary citizens and the investor community at large. Bringing transparency and accountability to securities class action litigation is important to protect the rights and interests of every American who owns stock.

When a class action lawsuit is brought against a company for defrauding shareholders, one of the first steps is the selection of the lead plaintiff. The lead plaintiff is the shareholder who will actually sit in the courtroom and represent the interests of all of the shareholders in the litigation. The lead plaintiff selects the lawyer who will represent the class in the lawsuit, subject only to approval by the court.

Under the Private Securities Litigation Reform Act of 1995, the lead plaintiff is supposed to be the shareholder ''that the court determines to be most capable of adequately representing the interests of class members.'' 15 U.S.C. 78u–4(a)(3)(B)(i). The PSLRA creates a presumption that, in general, the lead plaintiff should be the plaintiff with the ''largest financial interest in the relief sought by the class.'' 15 U.S.C. 78u–4(a)(3)(B)(iii)(bb). The theory behind this rule is that the party with the most at stake will most vigorously defend the interests of the entire class. In general, this theory has proven true, and the PSLRA is a substantial improvement over the law before the PSLRA, in which the lead plaintiff was generally whoever first filed the lawsuit.

However, as recent events have shown, the PSLRA has itself proven subject to abuse. The Bill that I introduce today has been made necessary by recent scandals in which lawyers entered secret arrangements with lead plaintiffs to keep an unfair amount of

the lawsuit's proceeds between them, while shutting out ordinary investors. Essentially, the lead plaintiff agreed to an unreasonably high attorneys' fee, with the understanding that the law firm would funnel a portion of that fee back to the lead plaintiff. Thus, the lawyers were overcompensated and the lead plaintiffs received a disproportionate share of the proceeds of the lawsuit. Ordinary investors, who the class action system is designed to protect, bore the costs of these illegal arrangements.

Today, William Lerach, once a name partner at the law firm of Milberg, Weiss, Bershad, Hynes & Lerach LLP, reports to the United States Penitentiary in Lompoc, California, after pleading guilty to entering into this type of illegal kickback arrangement with lead plaintiffs. Next month, his former law partner Melvyn Weiss will be sentenced for the same crime. But there is reason to believe that this criminal activity is not limited to a few bad actors. Indeed, Mr. Lerach, unrepentant about having defrauded thousands of investors out of millions of dollars, has tried to defend himself on the basis that ''everybody does it.'' ''Believe me,'' Mr. Lerach told the Wall Street Journal, ''it was industry practice.''

There have been many calls for reform to address this potentially widespread criminal practice. Last month, The Washington Post editorialized in response to the Milberg Weiss scandal that ''What is needed now is a sober discussion about how best to achieve a fairer, more balanced legal system through comprehensive tort reform.... Smart and ethical businesspeople and lawyers—and, yes, there are many who fit the bill—would be wise to start working together to craft such a fix.'' This bill opens that discussion.

The bill that I introduce today seeks to prevent securities litigation abuse by making two major reforms that directly address the two core problems that have led to this scandal—the potential for backdoor arrangements between lead plaintiffs and class counsel, and the resulting risk that lead plaintiffs will enter fee agreements that pay the lawyers more than the market rate.

The bill would require sworn certifications from lead plaintiffs and their attorneys disclosing: (a) any payments or promises of payment made by the attorney to the plaintiff in connection with the action; (b) any other legal representations of the plaintiff by the attorney; (c) any campaign contributions the attorney has made to any elected official with authority to retain counsel for the plaintiff; and (d) any other conflicts of interest. This disclosure would put an end to secret agreements where plaintiffs' lawyers pay kickbacks to the lead plaintiffs who retain them. These secret arrangements divorced the interests of both the lawyers and the lead plaintiffs from the interests of the class as a whole. Full disclosure will prevent this situation from recurring.

The bill would also require courts to employ a competitive bidding process as one of the criteria in the approval of the lead class counsel. In current practice, courts usually defer to the lead plaintiff's choice of class counsel after reviewing the prospective lead counsel's prior work on the case, experience, knowledge, and resources. The bill would require that courts also consider the prospective lead counsel's fees, and have courts solicit competitive bids so that those fees are based on market rates. The class members deserve to be represented at a reasonable market rate. Money that goes to the lawyers is money that never makes it to the ordinary shareholders who are the victims of securities fraud. Currently, courts review attorneys' fees for reasonableness before the fees are paid at the conclusion of the case. This provision would allow courts to negotiate a reasonable fee at the threshold of the litigation.

Finally, the bill would commission a study of the last 5 years of fee awards in securities class actions to determine the average hourly rate for lead counsel. Courts may be able to use this information to better rein-in excessive attorneys' fees.

It is important that corporations be held accountable through securities fraud litigation when they cheat ordinary shareholders out of their hard-earned money. But it is equally important that attorneys be held accountable when they do the same thing. The recent securities litigation kickback scandals ought to spur Congress to action, especially because, at least according to Mr. Lerach, defrauding shareholders has become ''industry practice'' for securities plaintiffs' lawyers. Fortunately, Mr. Lerach and Mr. Weiss have been brought to justice, but their shareholder victims will never see all of the money out of which they were cheated by these attorneys' crimes. The Securities Litigation Attorney Accountability and Transparency Act will help prevent these crimes against ordinary Americans from being repeated in the future. I urge my Senate colleagues to quickly convene hearings on this very serious problem and move this new legislation forward.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 569—EXPRESSING THE SENSE OF THE SENATE REGARDING THE EARTHQUAKE THAT STRUCK SICHUAN PROVINCE OF THE PEOPLE'S REPUBLIC OF CHINA ON MAY 12, 2008

Mrs. BOXER (for herself, Ms. MURKOWSKI, Mr. BIDEN, Mr. LUGAR, Mr. CASEY, Mr. CARDIN, Mr. FEINGOLD, Mr. KERRY, Mrs. MURRAY, Mr. LIEBERMAN, Mr. DODD, Mr. WHITEHOUSE, Mr. DURBIN, Ms. CANTWELL, Mr. ISAKSON, Mrs. CLINTON, Mr. SANDERS, Mrs. FEINSTEIN, Mr. LEAHY, Mr. OBAMA, and Mr. MENENDEZ) submitted the following resolution; which was considered and agreed to:

S. RES. 569

Whereas, on May 12, 2008, a powerful earthquake measuring 7.9 on the Richter Scale struck Wenchuan County in the Sichuan Province of the People's Republic of China, leaving at least 34,000 people dead, 245,000 people injured, and an estimated 5,000,000 people homeless;

Whereas authorities of the Government of the People's Republic of China report that approximately 9,500 people remain buried in Sichuan Province and another 29,000 people remain missing;

Whereas authorities of the Government of the People's Republic of China report that the final death toll is expected to exceed 50,000;

Whereas authorities of the Government of the People's Republic of China also report that as many as 4,700,000 homes were destroyed in Sichuan, Gansu, and Shaanxi Provinces and nearly 80 percent of the buildings collapsed in Beichuan County;

Whereas the sheer devastation caused by the earthquake and inclement weather has made rescue efforts exceptionally difficult, particularly in the areas hardest hit by the earthquake;

Whereas authorities of the Government of the People's Republic of China report that 158 relief workers were killed in landslides while working to repair roads in the areas most devastated by the earthquake;

Whereas the Seismological Bureau of the People's Republic of China reports that the earthquake has affected more than half of China's provinces and municipalities;

Whereas authorities of the Government of the People's Republic of China report that more than 2,000 aftershocks have occurred in the aftermath of the earthquake, some greater than a magnitude of 6.0 on the Richter Scale;

Whereas authorities of the Government of the People's Republic of China also report that 6,898 schoolrooms collapsed in Sichuan Province, trapping and killing hundreds of young students and their teachers;

Whereas the earthquake of May 12, 2008, was China's deadliest natural disaster since 1976, when hundreds of thousands of people were killed by an earthquake that struck the city of Tangshan;

Whereas, on May 12, 2008, President George W. Bush said that the United States ''stands ready to help in any way possible''; and

Whereas the Prime Minister of China, Wen Jiabao, said on May 13, 2008, that ''[t]he death toll and damage are more serious than we expected and we need more people here to help'': Now, therefore, be it

Resolved, That the Senate—

(1) mourns the horrific loss of life and terrible human suffering caused by the earthquake in the People's Republic of China on May 12, 2008;

(2) expresses its deep condolences to the people of the People's Republic of China and to all those affected by this enormous tragedy;

(3) expresses its profound sorrow for the families of all who lost loved ones, including those who suffered the heartbreaking loss of having their children trapped in schools that collapsed;

(4) calls on the President to respond to any requests for humanitarian assistance made by the Government of the People's Republic of China; and

(5) stands ready to support the provision of additional resources, as necessary, to assist those impacted by the earthquake.

SENATE RESOLUTION 570—CONGRATULATING ALBANIA AND CROATIA ON BEING INVITED TO BEGIN ACCESSION TALKS WITH THE NORTH ATLANTIC TREATY ORGANIZATION AND EXPRESSING SUPPORT FOR CONTINUING TO ENLARGE THE ALLIANCE

Mr. VOINOVICH (for himself, Mr. LUGAR, Mr. LIEBERMAN, and Mr. BIDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 570

Whereas the North Atlantic Treaty Organization (NATO) met in April 2008 to enlarge the alliance, to reaffirm the purpose of NATO to defend the populations, territories, and forces in the Euro-Atlantic region, and to further strengthen the ability of NATO to confront existing and emerging 21st-century security threats;

Whereas NATO invited Albania and Croatia to begin accession talks to join NATO and indicated that those talks will begin immediately, with the aim of signing Accession Protocols by the end of July 2008 and completing the ratification process without delay;

Whereas NATO expressed recognition of the hard work and commitment demonstrated by other countries that aspire to join NATO and commended those countries for their efforts to build multiethnic societies;

Whereas NATO agreed that Ukraine and Georgia have made valuable contributions to NATO operations, expressed clear support for the applications for Membership Action Plans from Ukraine and Georgia as the next step to full membership, and stated that NATO will begin a period of intensive engagement with Ukraine and Georgia to assess those applications for the December 2008 meeting;

Whereas NATO invited Bosnia and Herzegovina and Montenegro to begin an Intensified Dialogue on the full range of political, military, financial, and security issues relating to their aspirations to join NATO;

Whereas NATO expressed the desire to develop an ambitious and substantive relationship with Serbia, making full use of Serbia's membership in the Partnership for Peace, and to make more progress toward integrating Serbia into the Euro-Atlantic community, including though an Intensified Dialogue following a request by Serbia; and

Whereas NATO's ongoing enlargement process has been a historic success in advancing stability and cooperation and reaching the transatlantic goal of ensuring that Europe is whole and free, and united in peace, democracy, and common values: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Albania and Croatia on being invited by the North Atlantic Treaty Organization (NATO) to begin accession talks and recognizes the historic nature of that achievement, earned through years of hard work and a demonstrated commitment to common security and the shared values of NATO members;

(2) expresses strong support for the timely completion of the accession process with Albania and Croatia;

(3) fully supports the invitations to initiate an Intensified Dialogue between NATO and Bosnia and Herzegovina, Montenegro, and Serbia;

(4) continues to strongly support the aspirations of Ukraine and Georgia to become integrated into the Euro-Atlantic community, as reaffirmed in Senate Resolution 523, 110th Congress, agreed to April 28, 2008;

(5) supports the enlargement of NATO and believes that continued engagement with all countries that aspire to join NATO will strengthen security for all countries in the Euro-Atlantic region;

(6) supports the declaration of NATO at the Bucharest Summit, which states that NATO's door should remain open to European democracies willing and able to assume the responsibilities and obligations of membership, in accordance with Article 10 of the North Atlantic Treaty, signed at Washington April 4, 1949 (TIAS 1964); and

(7) affirms the statement in that declaration that any decision with respect to the membership of countries in NATO will be made through consensus, by members of NATO, and no country outside of NATO has a vote or veto with respect to such decisions.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4786. Mr. BYRD submitted an amendment intended to be proposed by him to the House amendment numbered 1 to the amendment of the Senate to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table.

SA 4787. Mr. BYRD submitted an amendment intended to be proposed by him to the House amendment numbered 2 to the amendment of the Senate to the bill H.R. 2642, supra; which was ordered to lie on the table.

SA 4788. Mr. BYRD submitted an amendment intended to be proposed by him to the House amendment to the amendment of the Senate to the bill H.R. 2642, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4786. Mr. BYRD submitted an amendment intended to be proposed by him to the House amendment numbered 1 to the amendment of the Senate to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the language proposed to be inserted, insert the following:

TITLE I

OTHER SECURITY, MILITARY CONSTRUCTION, AND INTERNATIONAL MATTERS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

For an additional amount for ''Public Law 480 Title II Grants'', $850,000,000, to remain available until expended.

For an additional amount for ''Public Law 480 Title II Grants'', $395,000,000, to become available on October 1, 2008, and to remain available until expended.

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For an additional amount for the Office of the Inspector General, $4,000,000, to remain available until September 30, 2009.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for ''Salaries and Expenses, General Legal Activities'', $1,648,000, to remain available until September 30, 2009.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for ''Salaries and Expenses, United States Attorneys'', $5,000,000, to remain available until September 30, 2009.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $18,621,000, to remain available until September 30, 2009.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $164,965,000, to remain available until September 30, 2009.

For an additional amount for ''Salaries and Expenses'', $82,600,000 to become available on October 1, 2008 and to remain available until September 30, 2009.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $22,666,000, to remain available until September 30, 2009.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $4,000,000, to remain available until September 30, 2009.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $9,100,000, to remain available until September 30, 2009.

CHAPTER 3

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

For an additional amount for ''Military Construction, Army'', $1,170,200,000: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds made available under this heading, $1,033,000,000 shall remain available until September 30, 2009, and $137,200,000 shall remain available until September 30, 2012: *Provided further*, That funds made available under this heading for military construction projects in Iraq shall not be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that none of the funds are to be used for the purpose of providing facilities for the permanent basing of U.S. military personnel in Iraq.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for ''Military Construction, Navy and Marine Corps'', $300,084,000: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds made available under this heading, $270,785,000 shall remain available until September 30, 2009, and $29,299,000 shall remain available until September 30, 2012.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for ''Military Construction, Air Force'', $361,900,000: *Provided*, That such funds may be obligated and

expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds made available under this heading, $324,300,000 shall remain available until September 30, 2009, and $37,600,000 shall remain available until September 30, 2012: *Provided further*, That funds made available under this heading for military construction projects in Iraq shall not be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that none of the funds are to be used for the purpose of providing facilities for the permanent basing of U.S. military personnel in Iraq.

MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for ''Military Construction, Defense-Wide'', $27,600,000, to remain available until September 30, 2009: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for ''Family Housing Construction, Navy and Marine Corps'', $11,766,000, to remain available until September 30, 2012: *Provided*, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $1,202,886,000, to remain available until expended.

DEPARTMENT OF VETERANS AFFAIRS

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for ''General Operating Expenses'', $100,000,000, to remain available until expended.

INFORMATION TECHNOLOGY SYSTEMS

For an additional amount for ''Information Technology Systems'', $20,000,000, to remain available until expended.

CONSTRUCTION, MAJOR PROJECTS

For an additional amount for ''Construction, Major Projects'', $437,100,000, to remain available until expended, which shall be for acceleration and completion of planned major construction of Level I polytrauma rehabilitation centers as identified in the Department of Veterans Affairs' Five Year Capital Plan: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and major medical facility construction not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act the Secretary shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1301. In addition to amounts otherwise appropriated or made available under the heading ''Military Construction, Army'', there is hereby appropriated an additional $70,600,000, to remain available until September 30, 2012, for the acceleration and completion of child development center construction as proposed in the fiscal year 2009 budget request for the Department of the Army: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction not otherwise authorized by law.

SEC. 1302. In addition to amounts otherwise appropriated or made available under the heading ''Military Construction, Navy and Marine Corps'', there is hereby appropriated an additional $89,820,000, to remain available until September 30, 2012, for the acceleration and completion of child development and youth center construction as proposed in the fiscal year 2009 budget request for the Department of the Navy: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction not otherwise authorized by law.

SEC. 1303. In addition to amounts otherwise appropriated or made available under the heading ''Military Construction, Air Force'', there is hereby appropriated an additional $8,100,000, to remain available until September 30, 2012, for the acceleration and completion of child development center construction as proposed in the fiscal year 2009 budget request for the Department of the Air Force: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction not otherwise authorized by law.

SEC. 1304. In addition to amounts otherwise appropriated or made available under the heading ''Military Construction, Army'', there is hereby appropriated an additional $200,000,000, to remain available until September 30, 2012, to accelerate barracks improvements at Department of the Army installations: *Provided*, That such funds may be obligated and expended to carry out planning and design and barracks construction not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act the Secretary shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for barracks construction prior to obligation.

SEC. 1305. COLLECTION OF CERTAIN INDEBTEDNESS OF MEMBERS OF THE ARMED FORCES AND VETERANS WHO DIE OF INJURY INCURRED OR AGGRAVATED IN SERVICE IN THE LINE OF DUTY IN A COMBAT ZONE. (a) LIMITATION ON AUTHORITY.—

(1) IN GENERAL.—Chapter 53 of title 38, United States Code, is amended by inserting after section 5302 the following new section:

''§ 5302A. Collection of indebtedness: certain debts of members of the Armed Forces and veterans who die of injury incurred or aggravated in the line of duty in a combat zone

''(a) LIMITATION ON AUTHORITY.—The Secretary may not collect all or any part of an amount owed to the United States by a member of the Armed Forces or veteran described in subsection (b) under any program under the laws administered by the Secretary, other than a program referred to in subsection (c), if the Secretary determines that termination of collection is in the best interest of the United States.

''(b) COVERED INDIVIDUALS.—A member of the Armed Forces or veteran described in this subsection is any member or veteran who dies as a result of an injury incurred or aggravated in the line of duty while serving in a theater of combat operations (as determined by the Secretary in consultation with the Secretary of Defense) in a war or in combat against a hostile force during a period of hostilities (as that term is defined in section 1712A(a)(2)(B) of this title) after September 11, 2001.

''(c) INAPPLICABILITY TO HOUSING AND SMALL BUSINESS BENEFIT PROGRAMS.—The limitation on authority in subsection (a) shall not apply to any amounts owed the United States under any program carried out under chapter 37 of this title.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 53 of such title is amended by inserting after the item relating to section 5302 the following new item:

''5302A. Collection of indebtedness: certain debts of members of the Armed Forces and veterans who die of injury incurred or aggravated in the line of duty in a combat zone.''.

(b) EQUITABLE REFUND.—In any case where all or any part of an indebtedness of a covered individual, as described in section 5302A(a) of title 38, United States Code, as added by subsection (a)(1), was collected after September 11, 2001, and before the date of the enactment of this Act, and the Secretary of Veterans Affairs determines that such indebtedness would have been terminated had such section been in effect at such time, the Secretary may refund the amount so collected if the Secretary determines that the individual is equitably entitled to such refund.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to collections of indebtedness of members of the Armed Forces and veterans who die on or after September 11, 2001.

(d) SHORT TITLE.—This section may be cited as the ''Combat Veterans Debt Elimination Act of 2008''.

CHAPTER 4

SUBCHAPTER A—SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2008

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for ''Diplomatic and Consular Programs'', $1,413,700,000, to remain available until September 30, 2009, of which $212,400,000 for worldwide security protection is available until expended: *Provided*, That not more than $1,095,000,000 of the funds appropriated under this heading shall be available for diplomatic operations in Iraq: *Provided further*, That of the funds appropriated under this heading, not more than $30,000,000 shall be made available to establish and implement a coordinated civilian response capacity at the United States Department of State: *Provided further*, That of the funds appropriated under this heading, up to $5,000,000 shall be made available to establish a United States Consulate in Lhasa, Tibet: *Provided further*, That the Department of State shall not consent to the opening of a consular post in the United States by the People's Republic of China until such time as a United States Consulate in Lhasa, Tibet is established.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of Inspector General'', $12,500,000, to remain available until September 30, 2009: *Provided*, That $2,500,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight, and up to $5,000,000 may be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For an additional amount for ''Educational and Cultural Exchange Programs'', $10,000,000, to remain available until September 30, 2009, of which $5,000,000 shall be for programs and activities in Africa, and $5,000,000 shall be for programs and activities in the Western Hemisphere.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for ''Embassy Security, Construction, and Maintenance'', $76,700,000, to remain available until expended, for facilities in Afghanistan.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for ''Contributions to International Organizations'', $66,000,000, to remain available until September 30, 2009.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for ''Contributions for International Peacekeeping Activities'', $383,600,000, to remain available until September 30, 2009, of which $333,600,000 shall be made available for the United Nations-African Union Hybrid Mission in Darfur.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for ''International Broadcasting Operations'', $3,000,000, to remain available until September 30, 2009.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for ''International Disaster Assistance'', $240,000,000, to remain available until expended.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for ''Operating Expenses of the United States Agency for International Development'', $149,500,000, to remain available until September 30, 2009: *Provided*, That of the funds appropriated under this heading, not more than $25,000,000 shall be made available to establish and implement a coordinated civilian response capacity at the United States Agency for International Development.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Operating Expenses of the United States Agency for International Development Office of Inspector General'', $4,000,000, to remain available until September 30, 2009.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For an additional amount for ''Economic Support Fund'', $1,962,500,000, to remain available until September 30, 2009, of which not more than $398,000,000 may be made available for assistance for Iraq, $150,000,000 shall be made available for assistance for Jordan to meet the needs of Iraqi refugees, and up to $53,000,000 may be made available for energy-related assistance for North Korea, notwithstanding any other provision of law: *Provided*, That not more than $200,000,000 of the funds appropriated under this heading in this subchapter shall be made available for assistance for the West Bank: *Provided further*, That funds made available pursuant to the previous proviso shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That the funds made available under this heading for energy-related assistance for North Korea may be made available to support the goals of the Six Party Talks Agreements after the Secretary of State determines and reports to the Committees on Appropriations that North Korea is continuing to fulfill its commitments under such agreements.

DEPARTMENT OF STATE

DEMOCRACY FUND

For an additional amount for ''Democracy Fund'', $76,000,000, to remain available until September 30, 2009, of which $75,000,000 shall be for democracy programs in Iraq and $1,000,000 shall be for democracy programs in Chad.

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for ''International Narcotics Control and Law Enforcement'', $520,000,000, to remain available until September 30, 2009, of which not more than $25,000,000 shall be made available for security assistance for the West Bank: *Provided*, That of the funds appropriated under this heading, $1,000,000 shall be made available for the Office of the United Nations High Commissioner for Human Rights in Mexico.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for ''Migration and Refugee Assistance'', $330,500,000, to remain available until expended.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For an additional amount for ''United States Emergency Refugee and Migration Assistance Fund'', $36,608,000, to remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for ''Nonproliferation, Anti-Terrorism, Demining and Related Programs'', $10,000,000, to remain available until September 30, 2009.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

PEACEKEEPING OPERATIONS

For an additional amount for ''Peacekeeping Operations'', $10,000,000, to remain available until September 30, 2009.

SUBCHAPTER B—BRIDGE FUND APPROPRIATIONS FOR FISCAL YEAR 2009

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for ''Diplomatic and Consular Programs'', $652,400,000, which shall become available on October 1, 2008 and remain available through September 30, 2009: *Provided*, That of the funds appropriated under this heading, $78,400,000 is for worldwide security protection and shall remain available until expended: *Provided further*, That not more than $500,000,000 of the funds appropriated under this heading shall be available for diplomatic operations in Iraq.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of Inspector General'', $57,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009: *Provided*, That $36,500,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight and up to $5,000,000 shall be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for ''Embassy Security, Construction, and Maintenance'', $41,300,000, which shall become available on October 1, 2008 and remain available until expended, for facilities in Afghanistan.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for ''Contributions to International Organizations'', $75,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for ''Contributions for International Peacekeeping Activities'', $150,500,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for ''International Broadcasting Operations'', $6,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

GLOBAL HEALTH AND CHILD SURVIVAL

For an additional amount for ''Global Health and Child Survival'', $75,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, for programs to combat avian influenza.

DEVELOPMENT ASSISTANCE

For an additional amount for ''Development Assistance'', $200,000,000, for assistance for developing countries to address the international food crisis notwithstanding any other provision of law, which shall become available on October 1, 2008 and remain available through September 30, 2010: *Provided*, That such assistance should be carried out consistent with the purposes of section 103(a)(1) of the Foreign Assistance Act of 1961: *Provided further*, That not more than $50,000,000 should be made available for local or regional purchase and distribution of food: *Provided further*, That the Secretary of State shall submit to the Committees on Appropriations not later than 45 days after enactment of this Act, and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of such funds to alleviate hunger and malnutrition, including a list of those countries facing significant food shortages.

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for ''International Disaster Assistance'', $200,000,000, which shall become available on October 1, 2008 and remain available until expended.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for ''Operating Expenses of the United States Agency for International Development'', $93,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Operating Expenses of the United States Agency for International Development Office of Inspector General'', $1,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For an additional amount for ''Economic Support Fund'', $1,132,300,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, of which not more than $110,000,000 may be made available for assistance for Iraq, $100,000,000 shall be made available for assistance for Jordan, not more than $455,000,000 may be made available for assistance for Afghanistan, not more than $150,000,000 may be made available for assistance for Pakistan, not more than $150,000,000 shall be made available for assistance for the West Bank, and $15,000,000 may be made available for energy-related assistance for North Korea, notwithstanding any other provision of law.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for ''International Narcotics Control and Law Enforcement'', $151,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, of which not more than $50,000,000 shall be made available for security assistance for the West Bank.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for ''Migration and Refugee Assistance'', $350,000,000, which shall become available on October 1, 2008 and remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for ''Nonproliferation, Anti-Terrorism, Demining and Related Programs'', $4,500,000, for humanitarian demining assistance for Iraq, which shall become available on October 1, 2008 and remain available through September 30, 2009.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for ''Foreign Military Financing Program'', $145,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, of which $100,000,000 shall be made available for assistance for Jordan: *Provided*, That section 3802(c) of title III, chapter 8 of Public of Law 110–28 shall apply to funds made available under this heading for assistance for Lebanon.

PEACEKEEPING OPERATIONS

For an additional amount for ''Peacekeeping Operations'', $85,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

SUBCHAPTER C—GENERAL PROVISIONS—THIS CHAPTER

EXTENSION OF AUTHORITIES

SEC. 1401. Funds appropriated by this chapter may be obligated and expended notwithstanding section 10 of Public Law 91–672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Year 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

IRAQ

SEC. 1402. (a) ASSET TRANSFER AGREEMENT.—

(1) None of the funds appropriated by this chapter for infrastructure maintenance activities in Iraq may be made available until the Secretary of State certifies and reports to the Committees on Appropriations that the Governments of the United States and Iraq have entered into, and are implementing, an asset transfer agreement that includes commitments by the Government of Iraq to maintain United States-funded infrastructure in Iraq.

(2) None of the funds appropriated by this chapter may be made available for the construction of prison facilities in Iraq.

(b) ANTI-CORRUPTION.—None of the funds appropriated by this chapter for rule of law programs in Iraq may be made available for assistance for the Government of Iraq until the Secretary of State certifies and reports to the Committees on Appropriations that a comprehensive anti-corruption strategy has been developed, and is being implemented, by the Government of Iraq, and the Secretary of State submits a list, in classified form if necessary, to the Committees on Appropriations of senior Iraqi officials who the Secretary has credible evidence to believe have committed corrupt acts.

(c) PROVINCIAL RECONSTRUCTION TEAMS.—None of the funds appropriated by this chapter for the operational or program expenses of Provincial Reconstruction Teams (PRTs) in Iraq may be made available until the Secretary of State submits a report to the Committees on Appropriations detailing—

(1) the strategy for the eventual winding down and close out of PRTs;

(2) anticipated costs associated with PRT operations, programs, and eventual winding down and close out, including security for PRT personnel and anticipated Government of Iraq contributions; and

(3) anticipated placement and cost estimates of future United States Consulates in Iraq.

(d) COMMUNITY STABILIZATION PROGRAM.—None of the funds appropriated by this chapter for the Community Stabilization Program in Iraq may be made available until the Secretary of State certifies and reports to the Committees on Appropriations that the United States Agency for International Development is implementing recommendations contained in Office of Inspector General Audit Report No. E–267–08–001–P to ensure accountability of funds.

(e) MATCHING REQUIREMENT.—

(1) Notwithstanding any other provision of law, funds appropriated by this chapter for assistance for Iraq shall be made available only to the extent that the Government of Iraq matches such assistance on a dollar-for-dollar basis.

(2) Subsection (e)(1) shall not apply to funds made available for—

(A) grants and cooperative agreements for programs to promote democracy and human rights;

(B) the Community Action Program and other assistance through civil society organizations;

(C) humanitarian demining; or

(D) assistance for refugees, internally displaced persons, and civilian victims of the military operations.

(3) The Secretary of State shall certify to the Committees on Appropriations prior to the initial obligation of funds pursuant to this section that the Government of Iraq has committed to obligate matching funds on a dollar-for-dollar basis. The Secretary shall submit a report to the Committees on Appropriations not later than September 30, 2008 and 180 days thereafter, detailing the amounts of funds obligated and expended by the Government of Iraq to meet the requirements of this section.

(4) Not later than 45 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations detailing the amounts provided by the Government of Iraq since June 30, 2004, to assist Iraqi refugees in Syria, Jordan, and elsewhere, and the amount of such assistance the Government of Iraq plans to provide in fiscal year 2008. The Secretary shall work expeditiously with the Government of Iraq to establish an account within its annual budget sufficient to, at a minimum, match United States contributions on a dollar-for-dollar basis to organizations and programs for the purpose of assisting Iraqi refugees.

(f) VETTING.—Prior to the initial obligation of funds appropriated for assistance for Iraq in this chapter, the Secretary of State shall, in consultation with the heads of other Federal departments and agencies, take appropriate steps to ensure that such funds are not provided to or through any individual, private entity, or educational institution that the Secretary knows or has reason to believe advocates, plans, sponsors, or engages in, terrorist activities.

(g) IRAQ RELIEF AND RECONSTRUCTION FUND.—

(1) Notwithstanding any other provision of law, the expired balances of funds appropriated or otherwise made available under the heading ''Iraq Relief and Reconstruction Fund'' in prior Acts making appropriations for foreign operations, export financing, and related programs shall be rescinded.

(2) None of the funds made available under the heading ''Iraq Relief and Reconstruction Fund'' in prior Acts making appropriations for foreign operations, export financing, and related programs may be reprogrammed for any purpose other than that previously notified to the Committees on Appropriations prior to April 30, 2008, and none of such funds may be made available to initiate any new projects or activities.

(3) Not later than 30 days after enactment of this Act, the Secretary of State shall report to the Committees on Appropriations on the balances of obligated funds referenced in subsection (g)(1), and estimates of the amount of funds required to close out ongoing projects or for outstanding claims.

AFGHANISTAN

SEC. 1403. (a) ASSISTANCE FOR WOMEN AND GIRLS.—Funds appropriated by this chapter under the heading ''Economic Support Fund'' that are available for assistance for Afghanistan shall be made available, to the maximum extent practicable, through local Afghan provincial and municipal governments and Afghan civil society organizations and in a manner that emphasizes the participation of Afghan women and directly improves the economic, social and political status of Afghan women and girls.

(b) HIGHER EDUCATION.—Of the funds appropriated by this chapter under the heading ''Economic Support Fund'' that are made available for education programs in Afghanistan, not less than 50 percent shall be made available to support higher education and vocational training programs in law, accounting, engineering, public administration, and other disciplines necessary to rebuild the country, in which the participation of women is emphasized.

(c) CIVILIAN ASSISTANCE.—Of the funds appropriated by this chapter under the heading ''Economic Support Fund'' that are available for assistance for Afghanistan, not less than $10,000,000 shall be made available for continued support of the United States Agency for International Development's Afghan Civilian Assistance Program, and not less than $2,000,000 shall be made available for a United States contribution to the North Atlantic Treaty Organization/International Security Assistance Force Post-Operations Humanitarian Relief Fund.

(d) ANTI-CORRUPTION.—Not later than 90 days after the enactment of this Act, the Secretary of State shall—

(1) submit a report to the Committees on Appropriations on actions being taken by the Government of Afghanistan to combat corruption within the national and provincial governments, including to remove and prosecute officials who have committed corrupt acts;

(2) submit a list to the Committees on Appropriations, in classified form if necessary, of senior Afghan officials who the Secretary has credible evidence to believe have committed corrupt acts; and

(3) certify and report to the Committees on Appropriations that effective mechanisms are in place to ensure that assistance to national government ministries and provincial governments will be properly accounted for.

WAIVER OF CERTAIN SANCTIONS AGAINST NORTH KOREA

SEC. 1404. (a) ANNUAL WAIVER AUTHORITY.—

(1) IN GENERAL.—Except as provided in subsection (b), the President may waive in

whole or in part, with respect to North Korea, the application of any sanction under section 102(b) of the Arms Export Control Act (22 U.S.C. 2799aa–1(b)), for the purpose of—

(A) assisting in the implementation and verification of the compliance by North Korea with its commitment, undertaken in the Joint Statement of September 19, 2005, to abandon all nuclear weapons and existing nuclear programs as part of the verifiable denuclearization of the Korean Peninsula; and

(B) promoting the elimination of the capability of North Korea to develop, deploy, transfer, or maintain weapons of mass destruction and their delivery systems.

(2) DURATION OF WAIVER.—Any waiver issued under this subsection shall expire at the end of the calendar year in which it is issued.

(b) EXCEPTIONS.—

(1) LIMITED EXCEPTION RELATED TO CERTAIN SANCTIONS AND PROHIBITIONS.—The authority under subsection (a) shall not apply with respect to a sanction or prohibition under subparagraph (B), (C), or (G) of section 102(b)(2) of the Arms Export Control Act, unless the President determines and certifies to the appropriate congressional committees that—

(A) all reasonable steps will be taken to assure that the articles or services exported or otherwise provided will not be used to improve the military capabilities of the armed forces of North Korea; and

(B) such waiver is in the national security interests of the United States.

(2) LIMITED EXCEPTION RELATED TO CERTAIN ACTIVITIES.—Unless the President determines and certifies to the appropriate congressional committees that using the authority under subsection (a) is vital to the national security interests of the United States, such authority shall not apply with respect to—

(A) an activity described in subparagraph (A) of section 102(b)(1) of the Arms Export Control Act that occurs after September 19, 2005, and before the date of the enactment of this Act;

(B) an activity described in subparagraph (C) of such section that occurs after September 19, 2005; or

(C) an activity described in subparagraph (D) of such section that occurs after the date of enactment of this Act.

(3) EXCEPTION RELATED TO CERTAIN ACTIVITIES OCCURRING AFTER DATE OF ENACTMENT.—The authority under subsection (a) shall not apply with respect to an activity described in subparagraph (A) or (B) of section 102(b)(1) of the Arms Export Control Act that occurs after the date of the enactment of this Act.

(c) NOTIFICATIONS AND REPORTS.—

(1) CONGRESSIONAL NOTIFICATION.—The President shall notify the appropriate congressional committees in writing not later than 15 days before exercising the waiver authority under subsection (a).

(2) ANNUAL REPORT.—Not later than January 31, 2009, and annually thereafter, the President shall submit to the appropriate congressional committees a report that—

(A) lists all waivers issued under subsection (a) during the preceding year;

(B) describes in detail the progress that is being made in the implementation of the commitment undertaken by North Korea, in the Joint Statement of September 19, 2005, to abandon all nuclear weapons and existing nuclear programs as part of the verifiable denuclearization of the Korean Peninsula;

(C) discusses specifically any shortcomings in the implementation by North Korea of that commitment; and

(D) lists and describes the progress and shortcomings, in the preceding year, of all other programs promoting the elimination of the capability of North Korea to develop, deploy, transfer, or maintain weapons of mass destruction or their delivery systems.

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

(1) the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

(2) the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives.

MEXICO

SEC. 1405. (a) ASSISTANCE FOR MEXICO.—Of the funds appropriated in subchapter A under the heading ''International Narcotics Control and Law Enforcement'', not more than $350,000,000 may be made available for assistance for Mexico, only to combat drug trafficking and related violence and organized crime, and for judicial reform, anti-corruption, and rule of law activities: *Provided*, That none of the funds made available under this section shall be made available for budget support or as cash payments: *Provided further*, That none of the funds made available under this section shall be available for obligation until the Secretary of State determines and reports to the Committees on Appropriations that vetting procedures are in place to ensure that members and units of the Mexican military and police forces that receive assistance pursuant to this section have not been involved in human rights violations or corrupt acts.

(b) ALLOCATION OF FUNDS.—Twenty-five percent of the funds made available by subchapter A for assistance for Mexico under the heading ''International Narcotics Control and Law Enforcement'' may be obligated only after the Secretary of State determines and reports to the Committees on Appropriations that:

(1) The Government of Mexico is—

(A) strengthening the legal authority and independence of the National Human Rights Commission;

(B) establishing police complaints commissions with authority and independence to receive complaints and carry out effective investigations;

(C) establishing an independent mechanism, with representation from civil society, to monitor programs to combat drug trafficking and related violence and organized crime, judicial reform, anti-corruption, and rule of law activities to ensure due process and the protection of freedoms of expression, association, and assembly, and rights of privacy, in accordance with Mexican and international law;

(D) is enforcing the prohibition on the use of testimony obtained through torture or other ill-treatment in violation of Mexican and international law;

(E) is ensuring that the Mexican military justice system is transferring all cases involving allegations of human rights violations by military personnel to civilian prosecutors and judicial authorities, and that the armed forces are fully cooperating with civilian prosecutors and judicial authorities in prosecuting and punishing in civilian courts members of the armed forces who have been credibly alleged to have committed such violations; and

(F) is ensuring that federal and state police forces are fully cooperating with prosecutors and judicial authorities in prosecuting and punishing members of the police forces who have been credibly alleged to have committed violations of human rights.

(2) Civilian prosecutors and judicial authorities are investigating, prosecuting and punishing members of the Mexican military and police forces who have been credibly alleged to have committed human rights violations.

(c) EXCEPTION.—Notwithstanding subsection (b), of the funds made available for assistance for Mexico pursuant to this section, $3,000,000 shall be made available for technical and other assistance to enable the Government of Mexico to implement a unified national registry of federal, state, and municipal police officers, and $5,000,000 should be made available to the Bureau of Alcohol, Tobacco, Firearms and Explosives to deploy special agents in Mexico to support Mexican law enforcement agencies in tracing seized firearms and investigating firearms trafficking cases.

(d) REPORT.—The report required in subsection (b) shall include a description of actions taken with respect to each requirement specified in subsection (b) and the cases or issues brought to the attention of the Secretary of State for which the response or action taken has been inadequate.

(e) NOTIFICATION.—Funds made available for Mexico in subchapter A shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

(f) SPENDING PLAN.—Not later than 45 days after the date of the enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a detailed spending plan for funds appropriated or otherwise made available for Mexico in subchapter A, which shall include a strategy for combating drug trafficking and related violence and organized crime, judicial reform, preventing corruption, and strengthening the rule of law, with concrete goals, actions to be taken, budget proposals, and anticipated results.

(g) CONSULTATION.—Not later than 90 days after the date of the enactment of this Act, and every 120 days thereafter until September 30, 2010, the Secretary of State shall consult with Mexican and internationally recognized human rights organizations on progress in meeting the requirements described in subsection (b).

CENTRAL AMERICA

SEC. 1406. (a) ASSISTANCE FOR THE COUNTRIES OF CENTRAL AMERICA.—Of the funds appropriated in subchapter A under the headings ''International Narcotics Control and Law Enforcement'' and ''Economic Support Fund'', not more than $100,000,000 may be made available for assistance for the countries of Central America, Haiti, and the Dominican Republic only to combat drug trafficking and related violence and organized crime, and for judicial reform, anti-corruption, and rule of law activities: *Provided*, That of the funds appropriated under the heading ''Economic Support Fund'', $40,000,000 shall be made available through the United States Agency for International Development for an Economic and Social Development Fund for Central America: *Provided further*, That of the funds made available pursuant to this section, $5,000,000 shall be made available for assistance for Haiti and $5,000,000 shall be made available for assistance for the Dominican Republic: *Provided further*, That of the funds made available pursuant to this section that are available for assistance for Guatemala, not less than $1,000,000 shall be made available for a United States contribution to the International Commission Against Impunity in Guatemala: *Provided further*, That none of the funds shall be made available for budget support or as cash payments: *Provided further*, That, with the exception of the first and third provisos in this section, none of the funds shall be available for obligation until the Secretary of State determines and reports to the Committees on Appropriations that vetting procedures are in place to ensure that members and units of the military

and police forces of the countries of Central America, Haiti and the Dominican Republic that receive assistance pursuant to this section have not been involved in human rights violations or corrupt acts.

(b) ALLOCATION OF FUNDS.—Twenty-five percent of the funds made available by subchapter A for assistance for the countries of Central America, Haiti and the Dominican Republic under the heading ''International Narcotics Control and Law Enforcement'' may be obligated only after the Secretary of State determines and reports to the Committees on Appropriations that the government of such country is—

(1) establishing a police complaints commission with authority and independence to receive complaints and carry out effective investigations;

(2) implementing reforms to improve the capacity and ensure the independence of the judiciary; and

(3) suspending, prosecuting and punishing members of the military and police forces who have been credibly alleged to have committed violations of human rights and corrupt acts.

(c) REPORT.—The report required in subsection (b) shall include actions taken with respect to each requirement and the cases or issues brought to the attention of the Secretary for which the response or action taken has been inadequate.

(d) NOTIFICATION.—Funds made available for assistance for the countries of Central America, Haiti and the Dominican Republic in subchapter A shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

(e) SPENDING PLAN.—Not later than 45 days after enactment of this Act the Secretary of State shall submit to the Committees on Appropriations a detailed spending plan for funds appropriated or otherwise made available for the countries of Central America, Haiti and the Dominican Republic in subchapter A, which shall include a strategy for combating drug trafficking and related violence and organized crime, judicial reform, preventing corruption, and strengthening the rule of law, with concrete goals, actions to be taken, budget proposals and anticipated results.

(f) CONSULTATION.—Not later than 90 days after the date of enactment of this Act and every 120 days thereafter until September 30, 2010, the Secretary of State shall consult with internationally recognized human rights organizations, and human rights organizations in the countries of Central America, Haiti and the Dominican Republic receiving assistance pursuant to this section, on progress in meeting the requirements described in subsection (b).

(g) DEFINITION.—For the purposes of this section, the term ''countries of Central America'' means Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

TECHNICAL PROVISIONS

SEC. 1407. (a) ADMINISTRATIVE EXPENSES.—Of the funds appropriated or otherwise made available under the heading ''Economic Support Fund'' by title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161), up to $7,800,000 may be made available, in addition to amounts otherwise available for such purposes, for administrative expenses of the United States Agency for International Development for alternative development programs in the Andean region of South America. These funds may be used to reimburse funds appropriated under the heading ''Operating Expenses of the United States Agency for International Development'' for obligations incurred for the purposes provided under this section prior to enactment of this Act.

(b) AUTHORITY.—Funds appropriated or otherwise made available by title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161) under the heading ''Economic Support Fund'' that are available for a competitively awarded grant for nuclear security initiatives relating to North Korea shall be made available notwithstanding any other provision of law.

(c) EXTENSION OF AUTHORITY.—Not more than $1,350,000 of the funds appropriated or otherwise made available under the heading ''Foreign Military Financing Program'' by the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161) that were previously transferred to and merged with ''Diplomatic and Consular Programs'' may be made available for any purposes authorized for that account, of which up to $500,000 shall be made available to increase the capacity of the United States Embassy in Mexico City to vet members and units of Mexican military and police forces that receive assistance made available by this Act and to monitor the uses of such assistance.

(d) REIMBURSEMENTS.—Any agreement for the transfer or allocation of funds appropriated by this Act, or prior Acts, entered into between the United States Agency for International Development and another agency of the United States Government under the authority of section 632(a) of the Foreign Assistance Act of 1961 or any comparable provision of law, shall include the provision of sufficient funds to fully reimburse the United States Agency for International Development for the administrative costs, including the cost of direct hire personnel, incurred in implementing and managing the programs and activities under such transfer or allocation. Such funds transferred or allocated to the United States Agency for International Development for administrative costs shall be transferred to and merged with ''Operating Expenses of the United States Agency for International Development''.

(e) EXCEPTION.—Section 10002 of title X of this Act shall not apply to this section.

(f) SPENDING AUTHORITY.—Funds made available by this chapter may be expended notwithstanding section 699K of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161).

BUYING POWER MAINTENANCE ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

SEC. 1408. (a) Of the funds appropriated under the heading ''Diplomatic and Consular Programs'' and allocated by section 3810 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28), $26,000,000 shall be transferred to and merged with funds in the ''Buying Power Maintenance Account'': *Provided*, That of the funds made available by this chapter up to an additional $74,000,000 may be transferred to and merged with the ''Buying Power Maintenance Account'', subject to the regular notification procedures of the Committees on Appropriations and in accordance with the procedures in section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706). Any funds transferred pursuant to this section shall be available, without fiscal year limitation, pursuant to section 24 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696).

(b) Section 24(b)(7) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(b)(7)) is amended by amending subparagraph (D) to read as follows:

''(D) The authorities contained in this paragraph may be exercised only with respect to funds appropriated or otherwise made available after fiscal year 2008.''.

SERBIA

SEC. 1409. (a) Of the funds made available for assistance for Serbia under the heading ''Assistance for Eastern Europe and the Baltic States'' by title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161), an amount equivalent to the costs of damage to the United States Embassy in Belgrade, Serbia, as estimated by the Secretary of State, resulting from the February 21, 2008 attack on such Embassy, shall be transferred to, and merged with, funds provided under the heading ''Embassy Security, Construction, and Maintenance'' to be used for necessary repairs or future construction.

(b) The requirements of subsection (a) shall not apply if the Secretary of State certifies to the Committees on Appropriations that the Government of Serbia has provided full compensation to the Department of State for damages to the United States Embassy in Belgrade, Serbia resulting from the February 21, 2008 attack on such Embassy.

(c) Section 10002 of title X of this Act shall not apply to this section.

RESCISSIONS

(INCLUDING RESCISSIONS)

SEC. 1410. (a) WORLD FOOD PROGRAM.—

(1) For an additional amount for a contribution to the World Food Program to assist farmers in countries affected by food shortages to increase crop yields, notwithstanding any other provision of law, $20,000,000, to remain available until expended.

(2) Of the funds appropriated under the heading ''Andean Counterdrug Initiative'' in prior acts making appropriations for foreign operations, export financing, and related programs, $20,000,000 are rescinded.

(b) SUDAN.—

(1) For an additional amount for ''International Narcotics Control and Law Enforcement'', $10,000,000, for assistance for Sudan to support formed police units, to remain available until September 30, 2009, and subject to prior consultation with the Committees on Appropriations.

(2) Of the funds appropriated under the heading ''International Narcotics Control and Law Enforcement'' in prior acts making appropriations for foreign operations, export financing, and related programs, $10,000,000 are rescinded.

(c) MEXICO.—Of the unobligated balances of funds appropriated for ''Iraq Relief and Reconstruction Fund'' in prior Acts making appropriations for foreign operations, export financing, and related programs, $50,000,000 are rescinded, notwithstanding section 1402(g) of this Act.

(d) HORN OF AFRICA.—

(1) For an additional amount for ''Economic Support Fund'', $40,000,000 for programs to promote development and counter extremism in the Horn of Africa, to be administered by the United States Agency for International Development, and to remain available until September 30, 2009.

(2) Of the unobligated balances of funds appropriated for ''Iraq Relief and Reconstruction Fund'' in prior Acts making appropriations for foreign operations, export financing, and related programs, $40,000,000 are rescinded, notwithstanding section 1402(g) of this Act.

(e) EXCEPTION.—Section 10002 of title X of this Act shall not apply to subsections (a) and (b) of this section.

DARFUR PEACEKEEPING

SEC. 1411. Funds appropriated under the headings ''Foreign Military Financing Program'' and ''Peacekeeping Operations'' by the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161) and by prior Acts making appropriations for foreign operations, export financing, and related programs may be used to transfer or lease helicopters necessary to the operations of the African Union/United Nations peacekeeping operation in Darfur, Sudan, that was established pursuant to United Nations Security Council Resolution 1769. The President may utilize the authority of sections 506 or 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318, 2321j) or section 61 of the Arms Export Control Act (22 U.S.C. 2796) in order to effect such transfer or lease, notwithstanding any other provision of law except for sections 502B(a)(2), 620A and 620J of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2), 2371, 2378d) and section 40A of the Arms Export Control Act (22 U.S.C. 2780). Any exercise of the authority of section 506 of the Foreign Assistance Act pursuant to this section may include the authority to acquire helicopters by contract.

FOOD SECURITY AND CYCLONE NARGIS RELIEF

(INCLUDING RESCISSION OF FUNDS)

SEC. 1412. (a) For an additional amount for ''International Disaster Assistance'', $225,000,000, to address the international food crisis globally and for assistance for Burma to address the effects of Cyclone Nargis: *Provided*, That not less than $125,000,000 should be made available for the local or regional purchase and distribution of food to address the international food crisis: *Provided further*, That notwithstanding any other provision of law, none of the funds appropriated under this heading may be made available for assistance for the State Peace and Development Council.

(b) Of the unexpended balances of funds appropriated under the heading ''Millennium Challenge Corporation'' in prior Acts making appropriations for foreign operations, export financing and related programs, $225,000,000 are rescinded.

(c) Section 10002 of title X of this Act shall not apply to this section.

SOUTH AFRICA

SEC. 1413. The Secretary of State, after consultation with the Attorney General and the Secretary of Homeland Security, may determine, in the Secretary's sole and unreviewable discretion considering the foreign policy interests of the United States, that for activities undertaken in opposition to apartheid rule, subsections (a)(2) and (a)(3)(B) of 8 U.S.C. 1182, as amended, shall not apply.

JORDAN

(INCLUDING RESCISSION OF FUNDS)

SEC. 1414. (a) For an additional amount for ''Economic Support Fund'' for assistance for Jordan, $100,000,000, to remain available until September 30, 2009.

(b) For an additional amount for ''Foreign Military Financing Program'' for assistance for Jordan, $200,000,000, to remain available until September 30, 2009.

(c) Of the unexpended balances of funds appropriated under the heading ''Millennium Challenge Corporation'' in prior Acts making appropriations for foreign operations, export financing, and related programs, $300,000,000 are rescinded.

(d) Section 10002 of title X of this Act shall not apply to this section.

ALLOCATIONS

SEC. 1415. (a) Funds provided by this chapter for the following accounts shall be made available for programs and countries in the amounts contained in the respective tables included in the explanatory statement accompanying this Act:

''Diplomatic and Consular Programs''.

''Economic Support Fund''.

(b) Any proposed increases or decreases to the amounts contained in such tables in the statement accompanying this Act shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

REPROGRAMMING AUTHORITY

SEC. 1416. Notwithstanding any other provision of law, to include minimum funding requirements or funding directives, funds made available under the headings ''Development Assistance'' and ''Economic Support Fund'' in prior Acts making appropriations for foreign operations, export financing, and related programs may be made available to address critical food shortages, subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

SPENDING PLANS AND NOTIFICATION PROCEDURES

SEC. 1417. (a) SUBCHAPTER A SPENDING PLAN.—Not later than 45 days after the enactment of this Act the Secretary of State shall submit to the Committees on Appropriations a report detailing planned expenditures for funds appropriated under the headings in subchapter A, except for funds appropriated under the headings ''International Disaster Assistance'', ''Migration and Refugee Assistance'', and ''United States Emergency Refugee and Migration Assistance Fund''.

(b) SUBCHAPTER B SPENDING PLAN.—The Secretary of State shall submit to the Committees on Appropriations not later than November 1, 2008, and prior to the initial obligation of funds, a detailed spending plan for funds appropriated or otherwise made available in subchapter B, except for funds appropriated under the headings ''International Disaster Assistance'', ''Migration and Refugee Assistance'', and ''United States Emergency Refugee and Migration Assistance Fund''.

(c) NOTIFICATION.—Funds made available in this chapter shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

TERMS AND CONDITIONS

SEC. 1418. Unless otherwise provided for in this Act, funds appropriated, or otherwise made available, by this chapter shall be available under the authorities and conditions provided in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161).

TITLE II

DOMESTIC MATTERS

CHAPTER 1

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for salaries and expenses of the Food and Drug Administration, $265,000,000, to remain available until September 30, 2009: *Provided*, That of the amount provided: (1) $119,000,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) $48,500,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs; (3) $23,500,000 shall be for the Center for Biologics Evaluation and Research and related field activities in the Office of Regulatory Affairs; (4) $10,700,000 shall be for the Center for Veterinary Medicine and related field activities in the Office of Regulatory Affairs; (5) $35,500,000 shall be for the Center for Devices and Radiological Health and related field activities in the Office of Regulatory Affairs; (6) $6,000,000 shall be for the National Center for Toxicological Research; and (7) $21,800,000 shall be for other activities, including the Office of the Commissioner, the Office of Scientific and Medical Programs; the Office of Policy, Planning and Preparedness; the Office of International and Special Programs; the Office of Operations; and central services for these offices.

BUILDINGS AND FACILITIES

For an additional amount for plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $10,000,000, to remain available until expended.

CHAPTER 2

DEPARTMENT OF COMMERCE

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

For an additional amount for ''Periodic Censuses and Programs'', $210,000,000, to remain available until expended, for necessary expenses related to the 2010 Decennial Census: *Provided*, That not less than $3,000,000 shall be transferred to the ''Office of Inspector General'' at the Department of Commerce for necessary expenses associated with oversight activities of the 2010 Decennial Census: *Provided further*, That $1,000,000 shall be used only for a reimbursable agreement with the Defense Contract Management Agency to provide continuing contract management oversight of the 2010 Decennial Census.

DEPARTMENT OF JUSTICE

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $50,000,000, to remain available until September 30, 2009, for the United States Marshals Service to implement and enforce the Adam Walsh Child Protection and Safety Act (Public Law 109–248) to track down and arrest non-compliant sex offenders.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $178,000,000, to remain available until September 30, 2008.

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for the Edward Byrne Memorial Justice Assistance Grant program as authorized by subpart 1 of part E of title I of Omnibus Crime Control and Safe Street Act of 1968 (''1968 Act''), (except that section 1001(c), and the special rules for Puerto Rico under section 505(g), of the 1968 Act, shall not apply for purposes of this Act), $490,000,000, to remain available until September 30, 2008.

For an additional amount for ''State and Local Law Enforcement Assistance'', $100,000,000 for competitive grants, to remain available until expended, to provide assistance and equipment to local law enforcement along the Southern border and in High-Intensity Drug Trafficking Areas to combat criminal narcotic activity stemming from the Southern border, of which $10,000,000 shall be for the ATF Project Gunrunner.

SCIENCE

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RETURN TO FLIGHT

For necessary expenses, not otherwise provided for, in carrying out return to flight activities associated with the space shuttle and activities from which funds were transferred to accommodate return to flight activities, $200,000,000, to remain available until September 30, 2009 with such sums as determined by the Administrator of the National Aeronautics and Space Administration as available for transfer to and ''Science, Aeronautics, Exploration'', and ''Exploration Capabilities'' for restoration of funds previously reallocated to meet return to flight activities.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For additional expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), $150,000,000, to remain available until September 30, 2009.

EDUCATION AND HUMAN RESOURCES

For additional expenses in carrying out science and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), $50,000,000, to remain available until September 30, 2009.

GENERAL PROVISION—THIS CHAPTER

SEC. 2201. (a) Section 3008(a) of the Digital Television Transition and Public Safety Act of 2005 is amended—

(1) by inserting ''(1) IN GENERAL.—'' before ''The Assistant Secretary''; and

(2) by adding at the end thereof the following:

''(2) USE OF FUNDS.—As soon as practicable after the date of enactment of this Act, the Assistant Secretary shall make a determination, which the Assistant Secretary may adjust from time to time, with respect to whether the full amount provided under paragraph (1) will be needed for payments under that paragraph. If the Assistant Secretary determines that the full amount will not be needed for payments authorized by paragraph (1), the Assistant Secretary may use the remaining amount for consumer education and technical assistance regarding the digital television transition and the availability of the digital-to-analog converter box program (in addition to any amounts expended for such purpose under 3005(c)(2)(A) of this title), including partnering with, providing grants to, and contracting with non-profit organizations or public interest groups in achieving these efforts. If the Assistant Secretary initiates such an education program, the Assistant Secretary shall develop a plan to address the educational and technical assistance needs of vulnerable populations, such as senior citizens, individuals residing in rural and remote areas, and minorities, including, where appropriate, education plans focusing on the need for analog pass-through digital converter boxes in areas served by low power or translator stations, and shall consider the speed with which these objectives can be accomplished to the greatest public benefit.''.

(b) Section 3009(a) of the Deficit Reduction Act of 2005 (Public Law 109–171) is amended—

(1) by striking ''fiscal year 2009'' and inserting ''fiscal years 2009 through 2012''; and

(2) by striking ''no earlier than October 1, 2010'' and inserting ''on or after February 18, 2009''.

CHAPTER 3

DEPARTMENT OF ENERGY

NON-DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for ''Non-Defense Environmental Cleanup'', $5,000,000, to remain available until expended.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For an additional amount for ''Uranium Enrichment Decontamination and Decommissioning Fund'', $52,000,000, to remain available until expended.

SCIENCE

For an additional amount for ''Science'', $100,000,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for ''Defense Environmental Cleanup'', $243,000,000, to remain available until expended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2301. (a) Subject to subsection (b), the Secretary of Energy shall continue the cooperative agreement numbered DE–FC 26–06NT42073, as in effect on the date of enactment of this Act, through March 30, 2009.

(b) During the period beginning on the date of enactment of this Act and ending on March 30, 2009—

(1) the agreement described in subsection (a) may not be terminated except by the mutual consent of the parties to the agreement; and

(2) funds may be expended under the agreement only to complete and provide information and documentation to the Department of Energy.

SEC. 2302. INCENTIVES FOR ADDITIONAL DOWNBLENDING OF HIGHLY ENRICHED URANIUM BY THE RUSSIAN FEDERATION. The USEC Privatization Act (42 U.S.C. 2297h et seq.) is amended—

(1) in section 3102, by striking ''For purposes'' and inserting ''Except as provided in section 3112A, for purposes'';

(2) in section 3112(a), by striking ''The Secretary'' and inserting ''Except as provided in section 3112A(d), the Secretary''; and

(3) by inserting after section 3112 the following:

''SEC. 3112A. INCENTIVES FOR ADDITIONAL DOWNBLENDING OF HIGHLY ENRICHED URANIUM BY THE RUSSIAN FEDERATION.

''(a) DEFINITIONS.—In this section:

''(1) COMPLETION OF THE RUSSIAN HEU AGREEMENT.—The term 'completion of the Russian HEU Agreement' means the importation into the United States from the Russian Federation pursuant to the Russian HEU Agreement of uranium derived from the downblending of not less than 500 metric tons of highly enriched uranium of weapons origin.

''(2) DOWNBLENDING.—The term 'downblending' means processing highly enriched uranium into a uranium product in any form in which the uranium contains less than 20 percent uranium-235.

''(3) HIGHLY ENRICHED URANIUM.—The term 'highly enriched uranium' has the meaning given that term in section 3102(4).

''(4) HIGHLY ENRICHED URANIUM OF WEAPONS ORIGIN.—The term 'highly enriched uranium of weapons origin' means highly enriched uranium that—

''(A) contains 90 percent or more uranium-235; and

''(B) is verified by the Secretary of Energy to be of weapons origin.

''(5) LOW-ENRICHED URANIUM.—The term 'low-enriched uranium' means a uranium product in any form, including uranium hexafluoride (UF_6) and uranium oxide (UO_2), in which the uranium contains less than 20 percent uranium-235, without regard to whether the uranium is incorporated into fuel rods or complete fuel assemblies.

''(6) RUSSIAN HEU AGREEMENT.—The term 'Russian HEU Agreement' has the meaning given that term in section 3102(11).

''(7) URANIUM-235.—The term 'uranium-235' means the isotope ^{235}U.

''(b) STATEMENT OF POLICY.—It is the policy of the United States to support the continued downblending of highly enriched uranium of weapons origin in the Russian Federation in order to protect the essential security interests of the United States with respect to the nonproliferation of nuclear weapons.

''(c) PROMOTION OF DOWNBLENDING OF RUSSIAN HIGHLY ENRICHED URANIUM.—

''(1) INCENTIVES FOR THE COMPLETION OF THE RUSSIAN HEU AGREEMENT.—Prior to the completion of the Russian HEU Agreement, the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation and is not imported pursuant to the Russian HEU Agreement may not exceed the following amounts:

''(A) In each of the calendar years 2008 and 2009, not more than 22,500 kilograms.

''(B) In each of the calendar years 2010 and 2011, not more than 45,000 kilograms.

''(C) In calendar year 2012 and each calendar year thereafter through the calendar year of the completion of the Russian HEU Agreement, not more than 67,500 kilograms.

''(2) INCENTIVES TO CONTINUE DOWNBLENDING RUSSIAN HIGHLY ENRICHED URANIUM AFTER THE COMPLETION OF THE RUSSIAN HEU AGREEMENT.—

''(A) IN GENERAL.—In each calendar year beginning after the calendar year of the completion of the Russian HEU Agreement and before the termination date described in paragraph (8), the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin, may not exceed 400,000 kilograms.

''(B) ADDITIONAL IMPORTS.—

''(i) IN GENERAL.—In addition to the amount authorized to be imported under subparagraph (A) and except as provided in clause (ii), 20 kilograms of low-enriched uranium, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin, may be imported for every 3 kilograms of Russian highly enriched uranium of weapons origin that was downblended in the preceding calendar year, subject to the verification of the Secretary of Energy under paragraph (10).

''(ii) MAXIMUM ANNUAL IMPORTS.—Not more than 200,000 kilograms of low-enriched uranium may be imported in a calendar year under clause (i).

''(3) EXCEPTION WITH RESPECT TO INITIAL CORES.—The import limitations described in paragraphs (1) and (2) shall not apply to low-enriched uranium produced in the Russian Federation that is imported into the United States for use in the initial core of a new nuclear reactor.

''(4) ANNUAL ADJUSTMENT.—

''(A) IN GENERAL.—Beginning in the second calendar year after the calendar year of the completion of the Russian HEU Agreement, the Secretary of Energy shall increase or decrease the amount of low-enriched uranium that may be imported in a calendar year under paragraph (2) (including the amount of low-enriched uranium that may be imported

for each kilogram of highly enriched uranium downblended under paragraph (2)(B)(i)) by a percentage equal to the percentage increase or decrease, as the case may be, in the average amount of uranium loaded into nuclear power reactors in the United States in the most recent 3-calendar-year period for which data are available, as reported by the Energy Information Administration of the Department of Energy, compared to the average amount of uranium loaded into such reactors during the 3-calendar-year period beginning on January 1, 2011, as reported by the Energy Information Administration.

''(B) PUBLICATION OF ADJUSTMENTS.—As soon as practicable, but not later than July 31 of each calendar year, the Secretary of Energy shall publish in the Federal Register the amount of low-enriched uranium that may be imported in the current calendar year after the adjustment under subparagraph (A).

''(5) AUTHORITY FOR ADDITIONAL ADJUSTMENT.—In addition to the annual adjustment under paragraph (4), the Secretary of Commerce may adjust the import limitations under paragraph (2)(A) for a calendar year if the Secretary—

''(A) in consultation with the Secretary of Energy, determines that the available supply of low-enriched uranium from the Russian Federation and the available stockpiles of uranium of the Department of Energy are insufficient to meet demand in the United States in the following calendar year; and

''(B) notifies Congress of the adjustment not less than 45 days before making the adjustment.

''(6) EQUIVALENT QUANTITIES OF LOW-ENRICHED URANIUM IMPORTS.—

''(A) IN GENERAL.—The import limitations described in paragraphs (1) and (2) are expressed in terms of uranium containing 4.4 percent uranium-235 and a tails assay of 0.3 percent.

''(B) ADJUSTMENT FOR OTHER URANIUM.—Imports of low-enriched uranium under paragraphs (1) and (2) shall count against the import limitations described in such paragraphs in amounts calculated as the quantity of low-enriched uranium containing 4.4 percent uranium-235 necessary to equal the total amount of uranium-235 contained in such imports.

''(7) DOWNBLENDING OF OTHER HIGHLY ENRICHED URANIUM.—

''(A) IN GENERAL.—The downblending of highly enriched uranium not of weapons origin may be counted for purposes of paragraph (2)(B) or (8)(B), subject to verification under paragraph (10), if the Secretary of Energy determines that the highly enriched uranium to be downblended poses a risk to the national security of the United States.

''(B) EQUIVALENT QUANTITIES OF HIGHLY ENRICHED URANIUM.—For purposes of determining the additional low-enriched uranium imports allowed under paragraph (2)(B) and for purposes of paragraph (8)(B), highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A) shall count as downblended highly enriched uranium of weapons origin in amounts calculated as the quantity of highly enriched uranium containing 90 percent uranium-235 necessary to equal the total amount of uranium-235 contained in the highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A).

''(8) TERMINATION OF IMPORT RESTRICTIONS AFTER DOWNBLENDING OF AN ADDITIONAL 300 METRIC TONS OF HIGHLY ENRICHED URANIUM.—The provisions of this subsection shall terminate on the later of—

''(A) December 31, 2020; or

''(B) the date on which the Secretary of Energy certifies to Congress that, after the completion of the Russian HEU Agreement, not less than an additional 300 metric tons of Russian highly enriched uranium of weapons origin have been downblended.

''(9) SPECIAL RULE IF IMPORTATION UNDER RUSSIAN HEU AGREEMENT TERMINATES EARLY.—Notwithstanding any other provision of law, no low-enriched uranium produced in the Russian Federation that is not derived from highly enriched uranium of weapons origin, including low-enriched uranium obtained under contracts for separative work units, may be imported into the United States if, before the completion of the Russian HEU Agreement, the Secretary of Energy determines that the Russian Federation has taken deliberate action to disrupt or halt the importation into the United States of low-enriched uranium under the Russian HEU Agreement.

''(10) TECHNICAL VERIFICATIONS BY SECRETARY OF ENERGY.—

''(A) IN GENERAL.—The Secretary of Energy shall verify the origin, quantity, and uranium-235 content of the highly enriched uranium downblended for purposes of paragraphs (2)(B), (7), and (8)(B).

''(B) METHODS OF VERIFICATION.—In conducting the verification required under subparagraph (A), the Secretary of Energy shall employ the transparency measures provided for in the Russian HEU Agreement for monitoring the downblending of Russian highly enriched uranium of weapons origin and such other methods as the Secretary determines appropriate.

''(11) ENFORCEMENT OF IMPORT LIMITATIONS.—The Secretary of Commerce shall be responsible for enforcing the import limitations imposed under this subsection and shall enforce such import limitations in a manner that imposes a minimal burden on the commercial nuclear industry.

''(12) EFFECT ON OTHER AGREEMENTS.—

''(A) RUSSIAN HEU AGREEMENT.—Nothing in this section shall be construed to modify the terms of the Russian HEU Agreement, including the provisions of the Agreement relating to the amount of low-enriched uranium that may be imported into the United States.

''(B) OTHER AGREEMENTS.—If a provision of any agreement between the United States and the Russian Federation, other than the Russian HEU Agreement, relating to the importation of low-enriched uranium into the United States conflicts with a provision of this section, the provision of this section shall supersede the provision of the agreement to the extent of the conflict.

''(d) DOWNBLENDING OF HIGHLY ENRICHED URANIUM IN THE UNITED STATES.—The Secretary of Energy may sell uranium in the jurisdiction of the Secretary, including downblended highly enriched uranium, at fair market value to a licensed operator of a nuclear reactor in the United States—

''(1) in the event of a disruption in the nuclear fuel supply in the United States; or

''(2) after a determination of the Secretary under subsection (c)(9) that the Russian Federation has taken deliberate action to disrupt or halt the importation into the United States of low-enriched uranium under the Russian HEU Agreement.''.

CHAPTER 4

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2401. VETERANS BUSINESS RESOURCE CENTERS. There are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008, $600,000 for the ''Salaries and Expenses'' account of the Small Business Administration, for grants in the amount of $200,000 to veterans business resource centers that received grants from the National Veterans Business Development Corporation in fiscal years 2006 and 2007.

SEC. 2402. (A) IN GENERAL.—Section 604(a)(5) of title 28, United States Code, is amended by inserting after ''hold office during good behavior,'' the following: ''bankruptcy judges appointed under chapter 6 of title 28; territorial district court judges appointed under section 24 of the Organic Act of Guam (48 U.S.C. 1424b), section 1(b) of the Act of November 8, 1977 (48 U.S.C. 1821), or section 24(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614(a)); bankruptcy judges retired under section 377 of title 28; and judges retired under section 373 of title 28,''.

(b) CONSTRUCTION.—For purposes of construing and applying chapter 87 of title 5, United States Code, including any adjustment of insurance rates by regulation or otherwise, the following categories of judicial officers shall be deemed to be judges of the United States as described under section 8701 of title 5, United States Code:

(1) Bankruptcy judges appointed under chapter 6 of title 28, United States Code.

(2) Territorial district court judges appointed under section 24 of the Organic Act of Guam (48 U.S.C. 1424b), section 1(b) of the Act of November 8, 1977 (48 U.S.C. 1821), or section 24(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614(a)).

(3) Bankruptcy judges retired under section 377 of title 28, United States Code.

(4) Judges retired under section 373 of title 28, United States Code.

(c) EFFECTIVE DATE.—Subsection (b) and the amendment made by subsection (a) shall apply with respect to any payment made on or after the first day of the first applicable pay period beginning on or after the date of enactment of Public Law No. 110–177.

SEC. 2403. Life Insurance for Tax Court Judges Age 65 or Over. (a) IN GENERAL.—Section 7472 of the Internal Revenue Code of 1986 is amended by inserting after the word ''imposed'' where it appears in the second sentence the following phrase: ''after April 24, 1999, that is incurred''.

(b) EFFECTIVE DATE.—This amendment shall take effect as if included in the amendment made by section 852 of the Pension Protection Act of 2006.

CHAPTER 5

GENERAL PROVISION—THIS CHAPTER

SEC. 2501. SECURE RURAL SCHOOLS ACT AMENDMENT. (a) For fiscal year 2008, payments shall be made from any revenues, fees, penalties, or miscellaneous receipts described in sections 102(b)(3) and 103(b)(2) of the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393; 16 U.S.C. 500 note), not to exceed $100,000,000, and the payments shall be made, to the maximum extent practicable, in the same amounts, for the same purposes, and in the same manner as were made to States and counties in 2006 under that Act.

(b) There is appropriated $400,000,000, to remain available until December 31, 2008, to be used to cover any shortfall for payments made under this section from funds not otherwise appropriated.

(c) Titles II and III of Public Law 106–393 are amended, effective September 30, 2006, by striking ''2007'' and ''2008'' each place they appear and inserting ''2008'' and ''2009'', respectively.

CHAPTER 6

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for ''State Unemployment Insurance and Employment Service Operations'' for grants to the States for the administration of State unemployment insurance, $110,000,000, which may be

expended from the Employment Security Administration Account in the Unemployment Trust Fund, to be used for unemployment insurance workloads experienced by the States through September 30, 2008, which shall be available for Federal obligation through December 31, 2008.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for ''Disease Control, Research, and Training'', $26,000,000, for the prevention of and response to medical errors including research, education and outreach activities; of which no less than $5,000,000 shall be for responding to outbreaks of communicable diseases related to the re-use of syringes in outpatient clinics, including reimbursement of local health departments for testing and genetic sequencing of persons potentially exposed.

NATIONAL INSTITUTES OF HEALTH

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of the Director, National Institutes of Health'', $400,000,000, which shall be used to support additional scientific research in the Institutes and Centers of the National Institutes of Health: *Provided*, That these funds are to be transferred to the Institutes and Centers on a pro-rata basis: *Provided further*, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the National Institutes of Health: *Provided further*, That none of these funds are to be transferred to the Buildings and Facilities appropriation, the Center for Scientific Review, the Center for Information Technology, the Clinical Center, the Global Fund for HIV/AIDS, Tuberculosis and Malaria, and the Office of the Director except for the NIH Common Fund within the Office of the Director, which shall receive its pro-rata share of the increase.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2601. (a) In addition to amounts otherwise made available for fiscal year 2008, there are appropriated, out of any money in the Treasury not otherwise appropriated—

(1) $500,000,000 for fiscal year 2008, for making payments under subsections (a) through (d) of section 2604 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623); and

(2) $500,000,000 for fiscal year 2008, for making allotments under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)) that are made in such a manner as to ensure that each State's allotment percentage is the percentage the State would receive of funds allotted under section 2604(a) of such Act (42 U.S.C. 8623(a)), if the total amount appropriated for fiscal year 2008 and available to carry out such section 2604(a) had been less than $1,975,000,000.

(b) Funds appropriated under subsection (a)(2), and funds appropriated (but not obligated) prior to the date of enactment of this Act for making payments under section 2604(e) of such Act (42 U.S.C. 8623(e)), shall be released to States not later than 30 days after the date of enactment of this Act.

SEC. 2602. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES. (a) IN GENERAL.—Section 8104 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 189) is amended to read as follows:

''SEC. 8104. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES.

''(a) STUDY.—Beginning on the date that is 60 days after the date of enactment of this Act, and every year thereafter until the minimum wage in the respective territory is $7.25 per hour, the Government Accountability Office shall conduct a study to—

''(1) assess the impact of the minimum wage increases that occurred in American Samoa and the Commonwealth of the Northern Mariana Islands in 2007 and 2008, as required under Public Law 110–28, on the rates of employment and the living standards of workers, with full consideration of the other factors that impact rates of employment and the living standards of workers such as inflation in the cost of food, energy, and other commodities; and

''(2) estimate the impact of any further wage increases on rates of employment and the living standards of workers in American Samoa and the Commonwealth of the Northern Mariana Islands, with full consideration of the other factors that may impact the rates of employment and the living standards of workers, including assessing how the profitability of major private sector firms may be impacted by wage increases in comparison to other factors such as energy costs and the value of tax benefits.

''(b) REPORT.—No earlier than March 15, 2009, and not later than April 15, 2009, the Government Accountability Office shall transmit its first report to Congress concerning the findings of the study required under subsection (a). The Government Accountability Office shall transmit any subsequent reports to Congress concerning the findings of a study required by subsection (a) between March 15 and April 15 of each year.

''(c) ECONOMIC INFORMATION.—To provide sufficient economic data for the conduct of the study under subsection (a)—

''(1) the Department of Labor shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its household surveys and establishment surveys;

''(2) the Bureau of Economic Analysis of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its gross domestic product data; and

''(3) the Bureau of the Census of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its population estimates and demographic profiles from the American Community Survey,

with the same regularity and to the same extent as the Department or each Bureau collects and reports such data for the 50 States. In the event that the inclusion of American Samoa and the Commonwealth of the Northern Mariana Islands in such surveys and data compilations requires time to structure and implement, the Department of Labor, the Bureau of Economic Analysis, and the Bureau of the Census (as the case may be) shall in the interim annually report the best available data that can feasibly be secured with respect to such territories. Such interim reports shall describe the steps the Department or the respective Bureau will take to improve future data collection in the territories to achieve comparability with the data collected in the United States. The Department of Labor, the Bureau of Economic Analysis, and the Bureau of the Census, together with the Department of the Interior, shall coordinate their efforts to achieve such improvements.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

CHAPTER 7

RELATED AGENCY

AMERICAN BATTLE MONUMENTS COMMISSION

FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

For an additional amount for ''Foreign Currency Fluctuations Account'', $10,000,000, to remain available until expended, for purposes authorized by section 2109 of title 36, United States Code.

CHAPTER 8

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2801. Until January 1, 2009, an aircraft used by an air carrier in the operation specified in section 47528(e)(3) of title 49, United States Code, as of April 1, 2008, may continue to be operated under the provisions of that section by an air carrier that purchases or leases that aircraft after April 1, 2008, for conduct of the same operation. Operation of that aircraft under section 47528(e)(4) is authorized for the same time period.

SEC. 2802. Title 49, United States Code, is amended—

(1) by striking ''August 31, 2008,'' in section 44302(f)(1) and inserting ''August 31, 2009,'';

(2) by striking ''December 31, 2008,'' in section 44302(f)(1) and inserting ''December 31, 2009,''; and

(3) by striking ''December 31, 2008'' in section 44303(b) and inserting ''December 31, 2009''.

TITLE III

HURRICANES KATRINA AND RITA, AND OTHER NATURAL DISASTERS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FARM SERVICE AGENCY

EMERGENCY CONSERVATION PROGRAM

For the purposes of carrying out the Emergency Conservation Program, there is hereby appropriated $49,413,000, to remain available until expended.

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for ''Watershed and Flood Prevention Operations'', for emergency recovery operations, $130,464,000, to remain available until expended.

GENERAL PROVISION—THIS CHAPTER

(INCLUDING RESCISSION)

SEC. 3101. Of the funds made available in the second paragraph under the heading ''Rural Utilities Service, Rural Electrification and Telecommunications Loans Program Account'' in chapter 1 of division B of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109–148; 119 Stat. 2746), the Secretary may use an amount not to exceed $1,000,000 of remaining unobligated funds for the cost of loan modifications to rural electric loans made or guaranteed under the Rural Electrification Act of 1936, to respond to damage caused by any weather related events since Hurricane Katrina, to remain available until expended: *Provided*, That $1,000,000 of the remaining unobligated funds under such paragraph are rescinded.

CHAPTER 2

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for economic development assistance as provided by section 3082(a) of the Water Resources Development Act of 2007 (Public Law 110–114), $75,000,000, to remain available until September 30, 2009.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for ''Operations, Research, and Facilities'' for necessary expenses related to economic impacts associated with commercial fishery failures, fishery resource disasters, and regulations on commercial fishing industries, $75,000,000, to remain available until September 30, 2009.

DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for ''State and Local Law Enforcement Assistance'', for discretionary grants authorized by subpart 2 of part E, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as in effect on September 30, 2006, notwithstanding the provisions of section 511 of said Act, $75,000,000, to remain available until September 30, 2009: *Provided,* That the amount made available under this heading shall be for local law enforcement initiatives in the Gulf Coast region related to the aftermath of Hurricane Katrina.

GENERAL PROVISION—THIS CHAPTER

SEC. 3201. GULF OF MEXICO DESIGNATIONS. (a) Notwithstanding any other provision of law, no funds made available under this Act or any other Act for fiscal year 2008 or 2009 may be used to establish a national monument or otherwise convey protected status to any area in the marine environment of the Exclusive Economic Zone of the United States under the Act of June 8, 1906 (16 U.S.C. 431 et seq.).

(b) Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce may, as applicable, and in compliance with all requirements under title III of the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) (including the procedures for designation and implementation under section 304 of that Act (16 U.S.C. 1434)) with respect to any proposed protected area, submit to Congress a study of the proposed protected area.

CHAPTER 3

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION

For an additional amount for ''Construction'' for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, and for recovery from other natural disasters $5,033,345,000, to remain available until expended: *Provided,* That the Secretary of the Army is directed to use $4,362,000,000 of the funds appropriated under this heading to modify authorized projects in southeast Louisiana to provide hurricane and storm damage reduction and flood damage reduction in the greater New Orleans and surrounding areas to provide the levels of protection necessary to achieve the certification required for participation in the National Flood Insurance Program under the base flood elevations current at the time of this construction; $1,657,000,000 shall be used for the Lake Pontchartrain and Vicinity; $1,415,000,000 shall be used for the West Bank and Vicinity project; and $1,290,000,000 shall be for elements of the Southeast Louisiana Urban Drainage project, that are within the geographic perimeter of the West Bank and Vicinity and Lake Pontchartrain and Vicinity projects to provide for interior drainage of runoff from rainfall with a 10 percent annual exceedance probability: *Provided further,* That none of this $4,362,000,000 shall become available for obligation until October 1, 2008: *Provided further,* That non-Federal cost allocations for these projects shall be consistent with the cost-sharing provisions under which the projects were originally constructed: *Provided further,* That the $1,315,000,000 non-Federal cost share for these projects shall be repaid in accordance with provisions of section 103(k) of Public Law 99–662 over a period of 30 years: *Provided further,* That the expenditure of funds as provided above may be made without regard to individual amounts or purposes except that any reallocation of funds that are necessary to accomplish the established goals are authorized, subject to the approval of the House and Senate Committees on Appropriations: *Provided further,* That the Secretary of the Army is directed to use $604,745,000 of the funds appropriated under this heading to provide hurricane and storm damage reduction, flood damage reduction and ecosystem restoration along the Gulf Coast of Mississippi and surrounding areas generally as described in the Mobile District Engineer's Mississippi Coastal Improvements Program Comprehensive Plan Report; $173,615,000 shall be used for ecosystem restoration projects; $4,550,000 shall be used for the Moss Point Municipal Relocation project; $5,000,000 shall be used for the Waveland Floodproofing project; $150,000 shall be used for the Mississippi Sound Sub Aquatic Vegetation project; $15,430,000 shall be used for the Coast-wide Dune Restoration project; $397,000,000 shall be used for the Homeowners Assistance and Relocation project; and $9,000,000 shall be used for the Forrest Heights Hurricane and Storm Damage Reduction project: *Provided further,* That none of this $604,745,000 shall become available for obligation until October 1, 2008: *Provided further,* That these projects shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary requiring the non-Federal interests to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of the project and to hold and save the United States free from damages due to the construction or operation and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors: *Provided further,* That the $211,661,000 non-Federal cost share for these projects shall be repaid in accordance with the provisions of section 103(k) of Public Law 99–662 over a period of 30 years: *Provided further,* That the expenditure of funds as provided above may be made without regard to individual amounts or purposes except that any reallocation of funds that are necessary to accomplish the established goals are authorized, subject to the approval of the House and Senate Committees on Appropriations: *Provided further,* That the Secretary of the Army is directed to use $66,600,000 of the funds appropriated under this heading to address emergency situations at Corps of Engineers projects and rehabilitate and repair damages to Corps projects caused by recent natural disasters: *Provided further,* That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for ''Mississippi River and Tributaries'' for recovery from natural disasters, $17,700,000, to remain available until expended to repair damages to Federal projects caused by recent natural disasters.

OPERATIONS AND MAINTENANCE

For an additional amount for ''Operations and Maintenance'' to dredge navigation channels and repair other Corps projects related to natural disasters, $338,800,000, to remain available until expended: *Provided,* That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for ''Flood Control and Coastal Emergencies'', as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), for necessary expenses relating to the consequences of Hurricane Katrina and other hurricanes, and for recovery from other natural disasters, $3,368,400,000, to remain available until expended: *Provided,* That the Secretary of the Army is directed to use $2,926,000,000 of the funds appropriated under this heading to modify, at full Federal expense, authorized projects in southeast Louisiana to provide hurricane and storm damage reduction and flood damage reduction in the greater New Orleans and surrounding areas; $704,000,000 shall be used to modify the 17th Street, Orleans Avenue, and London Avenue drainage canals and install pumps and closure structures at or near the lakefront; $90,000,000 shall be used for stormproofing interior pump stations to ensure the operability of the stations during hurricanes, storms, and high water events; $459,000,000 shall be used for armoring critical elements of the New Orleans hurricane and storm damage reduction system; $53,000,000 shall be used to improve protection at the Inner Harbor Navigation Canal; $456,000,000 shall be used to replace or modify certain non-Federal levees in Plaquemines Parish to incorporate the levees into the existing New Orleans to Venice hurricane protection project; $412,000,000 shall be used for reinforcing or replacing flood walls, as necessary, in the existing Lake Pontchartrain and Vicinity project and the existing West Bank and Vicinity project to improve the performance of the systems; $393,000,000 shall be used for repair and restoration of authorized protections and floodwalls; $359,000,000 shall be to complete the authorized protection for the Lake Ponchartrain and Vicinity Project and for the West Bank and Vicinity Project: *Provided further,* That none of this $2,926,000,000 shall become available for obligation until October 1, 2008: *Provided further,* That any project using funds appropriated under this heading shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary requiring the non-Federal interests to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of the project and to hold and save the United States free from damages due to the construction or operation and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors: *Provided further,* That the Secretary of the Army, within available funds, is directed to continue the NEPA alternative evaluation of all options with particular attention to Options 1, 2 and 2a of the report to Congress, dated August 30, 2007, provided in response to the requirements of chapter 3, section 4303 of Public Law 110–28, and within 90 days of enactment of this Act provide the House and Senate Committees on Appropriations cost estimates to implement Options 1, 2 and 2a of the above cited report: *Provided further,* That the expenditure of funds as provided above may be made without regard to individual amounts or purposes

except that any reallocation of funds that are necessary to accomplish the established goals are authorized, subject to the approval of the House and Senate Committees on Appropriations: *Provided further*, That $348,000,000 of the amount provided under this heading shall be used for barrier island restoration and ecosystem restoration to restore historic levels of storm damage reduction to the Mississippi Gulf Coast: *Provided further*, That none of this $348,000,000 shall become available for obligation until October 1, 2008: *Provided further*, That this work shall be carried out at full Federal expense: *Provided further*, That the Secretary of the Army is directed to use $94,400,000 of the funds appropriated under this heading to support emergency operations, to repair eligible projects nationwide, and for other activities in response to recent natural disasters: *Provided further*, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

GENERAL EXPENSES

For an additional amount for ''General Expenses'' for increased efforts by the Mississippi Valley Division to oversee emergency response and recovery activities related to the consequences of hurricanes in the Gulf of Mexico in 2005, $1,500,000, to remain available until expended.

CHAPTER 4

GENERAL PROVISION—THIS CHAPTER

SEC. 3401. (a) EXTENSION OF PARTICIPATION TERM FOR VICTIMS OF HURRICANE KATRINA.—

(1) RETROACTIVITY.—If a small business concern, while participating in any program or activity under the authority of paragraph (10) of section 7(j) of the Small Business Act (15 U.S.C. 636(j)), was located in a parish or county described in paragraph (2) and was affected by Hurricane Katrina of 2005, the period during which that small business concern is permitted continuing participation and eligibility in such program or activity shall be extended for an additional 24 months.

(2) PARISHES AND COUNTIES COVERED.—Paragraph (1) applies to any parish in the State of Louisiana, or any county in the State of Mississippi or in the State of Alabama, that has been designated by the Administrator as a disaster area by reason of Hurricane Katrina of 2005 under disaster declaration 10176, 10177, 10178, 10179, 10180, or 10181.

(3) REVIEW AND COMPLIANCE.—The Administrator shall ensure that the eligibility for continuing participation by each small business concern that was participating in a program or activity covered by paragraph (1) before the date of enactment of this Act is reviewed and brought into compliance with this subsection.

(b) DEFINITIONS.—In this section—

(1) the term ''Administrator'' means the Administrator of the Small Business Administration; and

(2) the term ''small business concern'' has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632).

CHAPTER 5

GENERAL PROVISIONS—THIS CHAPTER

SEC. 3501. Notwithstanding any other provision of law, and not later than 30 days after the date of submission of a request for a single payment, the Federal Emergency Management Agency shall provide a single payment for any eligible costs under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act for any police station, fire station, or criminal justice facility that was damaged by Hurricane Katrina of 2005 or Hurricane Rita of 2005: *Provided*, That nothing in this section may be construed to alter the appeal or review process relating to assistance provided under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act: *Provided further*, That the Federal Emergency Management Agency shall not reduce the amount of assistance provided under section 406(c)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act for such facilities.

SEC. 3502. Until such time as the updating of flood insurance rate maps under section 19 of the Flood Modernization Act of 2007 is completed (as determined by the district engineer) for all areas located in the St. Louis District of the Mississippi Valley Division of the Corps of Engineers, the Administrator of the Federal Emergency Management Agency shall not adjust the chargeable premium rate for flood insurance under this section for any type or class of property located in an area in that District nor require the purchase of flood insurance for any type or class of property located in an area in that District not subject to such purchase requirement prior to the updating of such national flood insurance program rate map: *Provided*, That for purposes of this section, the term ''area'' does not include any area (or subdivision thereof) that has chosen not to participate in the flood insurance program under this section as of the date of enactment of this Act.

CHAPTER 6

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Wildland Fire Management'', $125,000,000, to remain available until expended, of which $100,000,000 is for emergency wildland fire suppression activities, and of which $25,000,000 is for rehabilitation and restoration of Federal lands: *Provided*, That emergency wildland fire suppression funds are also available for repayment to other appropriations accounts from which funds were transferred for wildfire suppression.

NATIONAL PARK SERVICE

HISTORIC PRESERVATION FUND

For an additional amount for the ''Historic Preservation Fund'', for expenses related to the consequences of Hurricane Katrina, $15,000,000, to remain available until expended: *Provided*, That the funds provided under this heading shall be provided to the Louisiana State Historic Preservation Officer, after consultation with the National Park Service, for grants for restoration and rehabilitation at Jackson Barracks: *Provided further*, That no more than 5 percent of funds provided under this heading for disaster relief grants may be used for administrative expenses.

ENVIRONMENTAL PROTECTION AGENCY

STATE AND TRIBAL ASSISTANCE GRANTS

For an additional amount for ''State and Tribal Assistance Grants'', for expenses related to the consequences of Hurricane Katrina, $5,000,000, to remain available until expended, for a grant to Cameron Parish, Louisiana, for construction of drinking water, wastewater and storm water infrastructure and for water quality protection: *Provided*, That for purposes of this grant, the grantee shall contribute not less than 45 percent of the cost of the project unless the grantee is approved for a waiver by the Agency.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for ''Wildland Fire Management'', $325,000,000, to remain available until expended, of which $250,000,000 shall be available for emergency wildfire suppression, and of which $75,000,000 shall be available for rehabilitation and restoration of Federal lands and may be transferred to other Forest Service accounts as necessary: *Provided*, That emergency wildfire suppression funds are also available for repayment to other appropriations accounts from which funds were transferred for wildfire suppression.

GENERAL PROVISION—THIS CHAPTER

SEC. 3601. Funds appropriated in section 132 of division F, Public Law 110–161, shall not be subject to 49 CFR Part 24 or Departmental policies issues pursuant to such regulations.

CHAPTER 7

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR MEDICARE AND MEDICAID SERVICES

For grants to States, consistent with section 6201(a)(4) of the Deficit Reduction Act of 2005, to make payments as defined by the Secretary in the methodology used for the Provider Stabilization grants to those Medicare participating general acute care hospitals, as defined in section 1886(d) of the Social Security Act, and currently operating in Jackson, Forrest, Hancock, and Harrison Counties of Mississippi and Orleans and Jefferson Parishes of Louisiana which continue to experience severe financial exigencies and other economic losses attributable to Hurricane Katrina or its subsequent flooding, and are in need of supplemental funding to relieve the financial pressures these hospitals face resulting from increased wage rates in hiring and retaining staff in order to stabilize access to patient care, $350,000,000, to be made available until September 30, 2010.

CHAPTER 8

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

(INCLUDING RESCISSION OF FUNDS)

For an additional amount for ''Military Construction, Army National Guard'', $11,503,000, to remain available until September 30, 2012: *Provided*, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds appropriated for ''Military Construction, Army National Guard'' under Public Law 109–234, $7,000,000 are hereby rescinded.

GENERAL PROVISION—THIS CHAPTER

SEC. 3801. Within the funds available in the Department of Defense Family Housing Improvement Fund as credited in accordance with 10 U.S.C. 2883(c), $10,500,000 shall be available for use at the Naval Construction Battalion Center, Gulfport, Mississippi, under the terms and conditions specified by 10 U.S.C. 2883, to remain available until expended.

CHAPTER 9

DEPARTMENT OF TRANSPORTATION

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

For an additional amount for the Emergency Relief Program as authorized under section 125 of title 23, United States Code, for eligible disasters occurring in fiscal years 2005 to the present, $451,126,383, to remain available until expended.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PERMANENT SUPPORTIVE HOUSING

For the provision of permanent supportive housing units as identified in the plan of the Louisiana Recovery Authority and approved by the Secretary of Housing and Urban Development, $73,000,000 to remain available until expended, of which not less than $20,000,000 shall be for project-based vouchers under section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)), not less than $50,000,000 shall be for grants under the Shelter Plus Care Program as authorized under subtitle F of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11403 et seq.), and not more than $3,000,000 shall be for related administrative expenses of the State of Louisiana or its designee or designees: *Provided*, That the Secretary of Housing and Urban Development shall, upon request, make funds available under this paragraph to the State of Louisiana or its designee or designees: *Provided further*, That notwithstanding any other provision of law, for the purpose of administering the amounts provided under this paragraph, the State of Louisiana or its designee or designees may act in all respects as a public housing agency as defined in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)): *Provided further*, That subparagraphs (B) and (D) of section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)) shall not apply with respect to vouchers made available under this paragraph.

PROJECT-BASED RENTAL ASSISTANCE

For an additional amount to areas impacted by Hurricane Katrina in the State of Mississippi for project-based vouchers under section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)13)), $20,000,000, to remain available until expended.

HOUSING TRANSITION ASSISTANCE

For an additional amount to the State of Louisiana for case management and housing transition services for families in areas impacted by Hurricanes Katrina and Rita of 2005, $3,000,000, to remain available until expended.

COMMUNITY DEVELOPMENT FUND

For an additional amount for the ''Community development fund'' for necessary expenses related to any uncompensated housing damage directly related to the consequences of Hurricane Katrina in the State of Alabama, $50,000,000, to remain available until expended: *Provided*, That prior to the obligation of funds the State shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address uncompensated housing damage: *Provided further*, That such funds may not be used for activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency: *Provided further*, That the State may use up to 5 percent of its allocation for administrative costs: *Provided further*, That in administering the funds under this paragraph, the Secretary of Housing and Urban Development may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by the State that such waiver is required to facilitate the use of such funds or guarantees, and a finding by the Secretary that such waiver would not be inconsistent with the overall purpose of the statute: *Provided further*, That the Secretary may waive the requirement that activities benefit persons of low and moderate income, except that at least 50 percent of the funds made available under this heading must benefit primarily persons of low and moderate income unless the Secretary otherwise makes a finding of compelling need: *Provided further*, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver.

(RESCISSION)

Of the unobligated balances remaining from funds appropriated under this heading by section 159 of Public Law 110–116 for the Louisiana Road Home program, $200,000,000 are rescinded.

TITLE IV—VETERANS EDUCATIONAL ASSISTANCE

SEC. 4001. SHORT TITLE.

This title may be cited as the ''Post-9/11 Veterans Educational Assistance Act of 2008''.

SEC. 4002. FINDINGS.

Congress makes the following findings:

(1) On September 11, 2001, terrorists attacked the United States, and the brave members of the Armed Forces of the United States were called to the defense of the Nation.

(2) Service on active duty in the Armed Forces has been especially arduous for the members of the Armed Forces since September 11, 2001.

(3) The United States has a proud history of offering educational assistance to millions of veterans, as demonstrated by the many ''G.I. Bills'' enacted since World War II. Educational assistance for veterans helps reduce the costs of war, assist veterans in readjusting to civilian life after wartime service, and boost the United States economy, and has a positive effect on recruitment for the Armed Forces.

(4) The current educational assistance program for veterans is outmoded and designed for peacetime service in the Armed Forces.

(5) The people of the United States greatly value military service and recognize the difficult challenges involved in readjusting to civilian life after wartime service in the Armed Forces.

(6) It is in the national interest for the United States to provide veterans who serve on active duty in the Armed Forces after September 11, 2001, with enhanced educational assistance benefits that are worthy of such service and are commensurate with the educational assistance benefits provided by a grateful Nation to veterans of World War II.

SEC. 4003. EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE ARMED FORCES WHO SERVE AFTER SEPTEMBER 11, 2001.

(a) EDUCATIONAL ASSISTANCE AUTHORIZED.—

(1) IN GENERAL.—Part III of title 38, United States Code, is amended by inserting after chapter 32 the following new chapter:

"CHAPTER 33—POST–9/11 EDUCATIONAL ASSISTANCE

''SUBCHAPTER I—DEFINITIONS

''Sec.
''3301. Definitions.

''SUBCHAPTER II—EDUCATIONAL ASSISTANCE

''3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement.
''3312. Educational assistance: duration.
''3313. Educational assistance: amount; payment.
''3314. Tutorial assistance.
''3315. Licensure and certification tests.
''3316. Supplemental educational assistance: members with critical skills or specialty; members serving additional service.
''3317. Public-private contributions for additional educational assistance.
''3318. Additional assistance: relocation or travel assistance for individual relocating or traveling significant distance for pursuit of a program of education.

''SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

''3321. Time limitation for use of and eligibility for entitlement.
''3322. Bar to duplication of educational assistance benefits.
''3323. Administration.
''3324. Allocation of administration and costs.

''SUBCHAPTER I—DEFINITIONS

"§ 3301. Definitions

''In this chapter:

''(1) The term 'active duty' has the meanings as follows (subject to the limitations specified in sections 3002(6) and 3311(b) of this title):

''(A) In the case of members of the regular components of the Armed Forces, the meaning given such term in section 101(21)(A) of this title.

''(B) In the case of members of the reserve components of the Armed Forces, service on active duty under a call or order to active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10.

''(2) The term 'entry level and skill training' means the following:

''(A) In the case of members of the Army, Basic Combat Training and Advanced Individual Training.

''(B) In the case of members of the Navy, Recruit Training (or Boot Camp) and Skill Training (or so-called 'A' School).

''(C) In the case of members of the Air Force, Basic Military Training and Technical Training.

''(D) In the case of members of the Marine Corps, Recruit Training and Marine Corps Training (or School of Infantry Training).

''(E) In the case of members of the Coast Guard, Basic Training.

''(3) The term 'program of education' has the meaning the meaning given such term in section 3002 of this title, except to the extent otherwise provided in section 3313 of this title.

''(4) The term 'Secretary of Defense' has the meaning given such term in section 3002 of this title.

''SUBCHAPTER II—EDUCATIONAL ASSISTANCE

"§ 3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement

''(a) ENTITLEMENT.—Subject to subsections (d) and (e), each individual described in subsection (b) is entitled to educational assistance under this chapter.

''(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual as follows:

''(1) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 36 months on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty; or

''(ii) is discharged or released from active duty as described in subsection (c).

''(2) An individual who—

''(A) commencing on or after September 11, 2001, serves at least 30 continuous days on active duty in the Armed Forces; and

''(B) after completion of service described in subparagraph (A), is discharged or released from active duty in the Armed Forces for a service-connected disability.

''(3) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 30 months, but less than 36 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty for an aggregate of less than 36 months; or

''(ii) before completion of service on active duty of an aggregate of 36 months, is discharged or released from active duty as described in subsection (c).

''(4) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 24 months, but less than 30 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty for an aggregate of less than 30 months; or

''(ii) before completion of service on active duty of an aggregate of 30 months, is discharged or released from active duty as described in subsection (c).

''(5) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 18 months, but less than 24 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty for an aggregate of less than 24 months; or

''(ii) before completion of service on active duty of an aggregate of 24 months, is discharged or released from active duty as described in subsection (c).

''(6) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 12 months, but less than 18 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty for an aggregate of less than 18 months; or

''(ii) before completion of service on active duty of an aggregate of 18 months, is discharged or released from active duty as described in subsection (c).

''(7) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 6 months, but less than 12 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty for an aggregate of less than 12 months; or

''(ii) before completion of service on active duty of an aggregate of 12 months, is discharged or released from active duty as described in subsection (c).

''(8) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 90 days, but less than 6 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty for an aggregate of less than 6 months; or

''(ii) before completion of service on active duty of an aggregate of 6 months, is discharged or released from active duty as described in subsection (c).

''(c) COVERED DISCHARGES AND RELEASES.—A discharge or release from active duty of an individual described in this subsection is a discharge or release as follows:

''(1) A discharge from active duty in the Armed Forces with an honorable discharge.

''(2) A release after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service and placement on the retired list, transfer to the Fleet Reserve or Fleet Marine Corps Reserve, or placement on the temporary disability retired list.

''(3) A release from active duty in the Armed Forces for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

''(4) A discharge or release from active duty in the Armed Forces for—

''(A) a medical condition which preexisted the service of the individual as described in the applicable paragraph of subsection (b) and which the Secretary determines is not service-connected;

''(B) hardship; or

''(C) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense.

''(d) PROHIBITION ON TREATMENT OF CERTAIN SERVICE AS PERIOD OF ACTIVE DUTY.—The following periods of service shall not be considered a part of the period of active duty on which an individual's entitlement to educational assistance under this chapter is based:

''(1) A period of service on active duty of an officer pursuant to an agreement under section 2107(b) of title 10.

''(2) A period of service on active duty of an officer pursuant to an agreement under section 4348, 6959, or 9348 of title 10.

''(3) A period of service that is terminated because of a defective enlistment and induction based on—

''(A) the individual's being a minor for purposes of service in the Armed Forces;

''(B) an erroneous enlistment or induction; or

''(C) a defective enlistment agreement.

''(e) TREATMENT OF INDIVIDUALS ENTITLED UNDER MULTIPLE PROVISIONS.—In the event an individual entitled to educational assistance under this chapter is entitled by reason of both paragraphs (4) and (5) of subsection (b), the individual shall be treated as being entitled to educational assistance under this chapter by reason of paragraph (5) of such subsection.

''§ 3312. Educational assistance: duration

''(a) IN GENERAL.—Subject to section 3695 of this title and except as provided in subsections (b) and (c), an individual entitled to educational assistance under this chapter is entitled to a number of months of educational assistance under section 3313 of this title equal to 36 months.

''(b) CONTINUING RECEIPT.—The receipt of educational assistance under section 3313 of this title by an individual entitled to educational assistance under this chapter is subject to the provisions of section 3321(b)(2) of this title.

''(c) DISCONTINUATION OF EDUCATION FOR ACTIVE DUTY.—(1) Any payment of educational assistance described in paragraph (2) shall not—

''(A) be charged against any entitlement to educational assistance of the individual concerned under this chapter; or

''(B) be counted against the aggregate period for which section 3695 of this title limits the individual's receipt of educational assistance under this chapter.

''(2) Subject to paragraph (3), the payment of educational assistance described in this paragraph is the payment of such assistance to an individual for pursuit of a course or courses under this chapter if the Secretary finds that the individual—

''(A)(i) in the case of an individual not serving on active duty, had to discontinue such course pursuit as a result of being called or ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10; or

''(ii) in the case of an individual serving on active duty, had to discontinue such course pursuit as a result of being ordered to a new duty location or assignment or to perform an increased amount of work; and

''(B) failed to receive credit or lost training time toward completion of the individual's approved education, professional, or vocational objective as a result of having to discontinue, as described in subparagraph (A), the individual's course pursuit.

''(3) The period for which, by reason of this subsection, educational assistance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall not exceed the portion of the period of enrollment in the course or courses from which the individual failed to receive credit or with respect to which the individual lost training time, as determined under paragraph (2)(B).

''§ 3313. Educational assistance: amount; payment

''(a) PAYMENT.—The Secretary shall pay to each individual entitled to educational assistance under this chapter who is pursuing an approved program of education (other than a program covered by subsections (e) and (f)) the amounts specified in subsection (c) to meet the expenses of such individual's subsistence, tuition, fees, and other educational costs for pursuit of such program of education.

''(b) APPROVED PROGRAMS OF EDUCATION.—A program of education is an approved program of education for purposes of this chapter if the program of education is offered by an institution of higher learning (as that term is defined in section 3452(f) of this title) and is approved for purposes of chapter 30 of this title (including approval by the State approving agency concerned).

''(c) AMOUNT OF EDUCATIONAL ASSISTANCE.—The amounts payable under this subsection for pursuit of an approved program of education are amounts as follows:

''(1) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(1) or 3311(b)(2) of this title, amounts as follows:

''(A) An amount equal to the established charges for the program of education, except that the amount payable under this subparagraph may not exceed the maximum amount of established charges regularly charged in-State students for full-time pursuit of approved programs of education for undergraduates by the public institution of higher education offering approved programs of education for undergraduates in the State in which the individual is enrolled that has the highest rate of regularly-charged established charges for such programs of education among all public institutions of higher education in such State offering such programs of education.

''(B) A monthly stipend in an amount as follows:

''(i) For each month the individual pursues the program of education, other than a program of education offered through distance learning, a monthly housing stipend amount equal to the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E–5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution of higher education at which the individual is enrolled.

''(ii) For the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational costs with respect to such quarter, semester, or term in the amount equal to—

''(I) $1,000, multiplied by

''(II) the fraction which is the portion of a complete academic year under the program of education that such quarter, semester, or term constitutes.

''(2) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(3) of this title, amounts equal to 90 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

''(3) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(4) of this title, amounts equal to 80 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

''(4) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(5) of this title, amounts equal to 70 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

''(5) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(6) of this title, amounts equal to 60 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

''(6) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(7) of this title, amounts equal to 50 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

''(7) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(8) of this title, amounts equal to 40 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

''(d) FREQUENCY OF PAYMENT.—(1) Payment of the amounts payable under subsection (c)(1)(A), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

''(2) Payment of the amount payable under subsection (c)(1)(B), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made on a monthly basis.

''(3) The Secretary shall prescribe in regulations methods for determining the number of months (including fractions thereof) of entitlement of an individual to educational assistance this chapter that are chargeable under this chapter for an advance payment of amounts under paragraphs (1) and (2) for pursuit of a program of education on a quarter, semester, term, or other basis.

''(e) PROGRAMS OF EDUCATION PURSUED ON ACTIVE DUTY.—(1) Educational assistance is payable under this chapter for pursuit of an approved program of education while on active duty.

''(2) The amount of educational assistance payable under this chapter to an individual pursuing a program of education while on active duty is the lesser of—

''(A) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

''(B) the amount of the charges of the educational institution as elected by the individual in the manner specified in section 3014(b)(1) of this title.

''(3) Payment of the amount payable under paragraph (2) for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

''(4) For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at the rate of one month for each such month.

''(f) PROGRAMS OF EDUCATION PURSUED ON HALF-TIME BASIS OR LESS.—(1) Educational assistance is payable under this chapter for pursuit of an approved program of education on half-time basis or less.

''(2) The educational assistance payable under this chapter to an individual pursuing a program of education on half-time basis or less is the amounts as follows:

''(A) The amount equal to the lesser of—

''(i) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

''(ii) the maximum amount that would be payable to the individual for the program of education under paragraph (1)(A) of subsection (c), or under the provisions of paragraphs (2) through (7) of subsection (c) applicable to the individual, for the program of education if the individual were entitled to amounts for the program of education under subsection (c) rather than this subsection.

''(B) A stipend in an amount equal to the amount of the appropriately reduced amount of the lump sum amount for books, supplies, equipment, and other educational costs otherwise payable to the individual under subsection (c).

''(3) Payment of the amounts payable to an individual under paragraph (2) for pursuit of a program of education on half-time basis or less shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

''(4) For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at a percentage of a month equal to—

''(A) the number of course hours borne by the individual in pursuit of the program of education involved, divided by

''(B) the number of course hours for full-time pursuit of such program of education.

''(g) PAYMENT OF ESTABLISHED CHARGES TO EDUCATIONAL INSTITUTIONS.—Amounts payable under subsections (c)(1)(A) (and of similar amounts payable under paragraphs (2) through (7) of subsection (c)), (e)(2) and (f)(2)(A) shall be paid directly to the educational institution concerned.

''(h) ESTABLISHED CHARGES DEFINED.—(1) In this section, the term 'established charges', in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay.

''(2) Established charges shall be determined for purposes of this subsection on the following basis:

''(A) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

''(B) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

''§ 3314. Tutorial assistance

''(a) IN GENERAL.—Subject to subsection (b), an individual entitled to educational assistance under this chapter shall also be entitled to benefits provided an eligible veteran under section 3492 of this title.

''(b) CONDITIONS.—(1) The provision of benefits under subsection (a) shall be subject to the conditions applicable to an eligible veteran under section 3492 of this title.

''(2) In addition to the conditions specified in paragraph (1), benefits may not be provided to an individual under subsection (a) unless the professor or other individual teaching, leading, or giving the course for which such benefits are provided certifies that—

''(A) such benefits are essential to correct a deficiency of the individual in such course; and

''(B) such course is required as a part of, or is prerequisite or indispensable to the satisfactory pursuit of, an approved program of education.

''(c) AMOUNT.—(1) The amount of benefits described in subsection (a) that are payable under this section may not exceed $100 per month, for a maximum of 12 months, or until a maximum of $1,200 is utilized.

''(2) The amount provided an individual under this subsection is in addition to the amounts of educational assistance paid the individual under section 3313 of this title.

''(d) NO CHARGE AGAINST ENTITLEMENT.—Any benefits provided an individual under subsection (a) are in addition to any other educational assistance benefits provided the individual under this chapter.

''§ 3315. Licensure and certification tests

''(a) IN GENERAL.—An individual entitled to educational assistance under this chapter shall also be entitled to payment for one licensing or certification test described in section 3452(b) of this title.

''(b) LIMITATION ON AMOUNT.—The amount payable under subsection (a) for a licensing or certification test may not exceed the lesser of—

''(1) $2,000; or

''(2) the fee charged for the test.

''(c) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under subsection (a) is in addition to any other educational assistance benefits provided the individual under this chapter.

"§ 3316. Supplemental educational assistance: members with critical skills or specialty; members serving additional service

''(a) INCREASED ASSISTANCE FOR MEMBERS WITH CRITICAL SKILLS OR SPECIALTY.—(1) In the case of an individual who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit or, in the case of critical units, retain personnel, the Secretary concerned may increase the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7) of such section (as applicable).

''(2) The amount of the increase in educational assistance authorized by paragraph (1) may not exceed the amount equal to the monthly amount of increased basic educational assistance providable under section 3015(d)(1) of this title at the time of the increase under paragraph (1).

''(b) SUPPLEMENTAL ASSISTANCE FOR ADDITIONAL SERVICE.—(1) The Secretary concerned may provide for the payment to an individual entitled to educational assistance under this chapter of supplemental educational assistance for additional service authorized by subchapter III of chapter 30 of this title. The amount so payable shall be payable as an increase in the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7) of such section (as applicable).

''(2) Eligibility for supplement educational assistance under this subsection shall be determined in accordance with the provisions of subchapter III of chapter 30 of this title, except that any reference in such provisions to eligibility for basic educational assistance under a provision of subchapter II of chapter 30 of this title shall be treated as a reference to eligibility for educational assistance under the appropriate provision of this chapter.

''(3) The amount of supplemental educational assistance payable under this subsection shall be the amount equal to the monthly amount of supplemental educational payable under section 3022 of this title.

''(c) REGULATIONS.—The Secretaries concerned shall administer this section in accordance with such regulations as the Secretary of Defense shall prescribe.

"§ 3317. Public-private contributions for additional educational assistance

''(a) ESTABLISHMENT OF PROGRAM.—In instances where the educational assistance provided pursuant to section 3313(c)(1)(A) does not cover the full cost of established charges (as specified in section 3313 of this title), the Secretary shall carry out a program under which colleges and universities can, voluntarily, enter into an agreement with the Secretary to cover a portion of those established charges not otherwise covered under section 3313(c)(1)(A), which contributions shall be matched by equivalent contributions toward such costs by the Secretary. The program shall only apply to covered individuals described in paragraphs (1) and (2) of section 3311(b).

''(b) DESIGNATION OF PROGRAM.—The program under this section shall be known as the 'Yellow Ribbon G.I. Education Enhancement Program'.

''(c) AGREEMENTS.—The Secretary shall enter into an agreement with each college or university seeking to participate in the program under this section. Each agreement shall specify the following:

''(1) The manner (whether by direct grant, scholarship, or otherwise) of the contributions to be made by the college or university concerned.

''(2) The maximum amount of the contribution to be made by the college or university concerned with respect to any particular individual in any given academic year.

''(3) The maximum number of individuals for whom the college or university concerned will make contributions in any given academic year.

''(4) Such other matters as the Secretary and the college or university concerned jointly consider appropriate.

''(d) MATCHING CONTRIBUTIONS.—(1) In instances where the educational assistance provided an individual under section 3313(c)(1)(A) of this title does not cover the full cost of tuition and mandatory fees at a college or university, the Secretary shall provide up to 50 percent of the remaining costs for tuition and mandatory fees if the college or university voluntarily enters into an agreement with the Secretary to match an equal percentage of any of the remaining costs for such tuition and fees.

''(2) Amounts available to the Secretary under section 3324(b) of this title for payment of the costs of this chapter shall be available to the Secretary for purposes of paragraph (1).

''(e) OUTREACH.—The Secretary shall make available on the Internet website of the Department available to the public a current list of the colleges and universities participating in the program under this section. The list shall specify, for each college or university so listed, appropriate information on the agreement between the Secretary and such college or university under subsection (c).

"§ 3318. Additional assistance: relocation or travel assistance for individual relocating or traveling significant distance for pursuit of a program of education

''(a) ADDITIONAL ASSISTANCE.—Each individual described in subsection (b) shall be paid additional assistance under this section in the amount of $500.

''(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual entitled to educational assistance under this chapter—

''(1) who resides in a highly rural area (as determined by the Bureau of the Census); and

''(2) who—

''(A) physically relocates a distance of at least 500 miles in order to pursue a program of education for which the individual utilizes educational assistance under this chapter; or

''(B) travels by air to physically attend an institution of higher education for pursuit of such a program of education because the individual cannot travel to such institution by automobile or other established form of transportation due to an absence of road or other infrastructure.

''(c) PROOF OF RESIDENCE.—For purposes of subsection (b)(1), an individual may demonstrate the individual's place of residence utilizing any of the following:

''(1) DD Form 214, Certification of Release or Discharge from Active Duty.

''(2) The most recent Federal income tax return.

''(3) Such other evidence as the Secretary shall prescribe for purposes of this section.

''(d) SINGLE PAYMENT OF ASSISTANCE.—An individual is entitled to only one payment of additional assistance under this section.

''(e) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under this section is in addition to any other educational assistance benefits provided the individual under this chapter.''.

''SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

"§ 3321. Time limitation for use of and eligibility for entitlement

''(a) IN GENERAL.—Except as provided in this section, the period during which an individual entitled to educational assistance under this chapter may use such individual's entitlement expires at the end of the 15-year period beginning on the date of such individual's last discharge or release from active duty.

''(b) EXCEPTIONS.—(1) Subsections (b), (c), and (d) of section 3031 of this title shall apply with respect to the running of the 15-year period described in subsection (a) of this section in the same manner as such subsections apply under section 3031 of this title with respect to the running of the 10-year period described in section 3031(a) of this title.

''(2) Section 3031(f) of this title shall apply with respect to the termination of an individual's entitlement to educational assistance under this chapter in the same manner as such section applies to the termination of an individual's entitlement to educational assistance under chapter 30 of this title, except that, in the administration of such section for purposes of this chapter, the reference to section 3013 of this title shall be deemed to be a reference to 3312 of this title.

''(3) For purposes of subsection (a), an individual's last discharge or release from active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service, unless the individual is discharged or released as described in section 3311(b)(2) of this title.

"§ 3322. Bar to duplication of educational assistance benefits

''(a) IN GENERAL.—An individual entitled to educational assistance under this chapter who is also eligible for educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980 (Public Law 96–449; 5 U.S.C. 5561 note) may not receive assistance under two or more such programs concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which chapter or provisions to receive educational assistance.

''(b) INAPPLICABILITY OF SERVICE TREATED UNDER EDUCATIONAL LOAN REPAYMENT PROGRAMS.—A period of service counted for purposes of repayment of an education loan under chapter 109 of title 10 may not be counted as a period of service for entitlement to educational assistance under this chapter.

''(c) SERVICE IN SELECTED RESERVE.—An individual who serves in the Selected Reserve may receive credit for such service under only one of this chapter, chapter 30 of this title, and chapters 1606 and 1607 of title 10, and shall elect (in such form and manner as the Secretary may prescribe) under which chapter such service is to be credited.

''(d) ADDITIONAL COORDINATION MATTERS.—In the case of an individual entitled to educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980, or making contributions toward entitlement to educational assistance under chapter 30 of this title, as of August 1, 2009, coordination of entitlement to educational assistance under this chapter, on the one hand, and such chapters or provisions, on the other, shall be governed by the provisions of section ___03(c) of the Post-9/11 Veterans Educational Assistance Act of 2008.

"§ 3323. Administration

''(a) IN GENERAL.—(1) Except as otherwise provided in this chapter, the provisions specified in section 3034(a)(1) of this title shall

apply to the provision of educational assistance under this chapter.

''(2) In applying the provisions referred to in paragraph (1) to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such provisions to the term 'eligible veteran' shall be deemed to refer to an individual entitled to educational assistance under this chapter.

''(3) In applying section 3474 of this title to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such section 3474 to the term 'educational assistance allowance' shall be deemed to refer to educational assistance payable under section 3313 of this title.

''(4) In applying section 3482(g) of this title to an individual entitled to educational assistance under this chapter for purposes of this section—

''(A) the first reference to the term 'educational assistance allowance' in such section 3482(g) shall be deemed to refer to educational assistance payable under section 3313 of this title; and

''(B) the first sentence of paragraph (1) of such section 3482(g) shall be applied as if such sentence ended with 'equipment'.

''(b) INFORMATION ON BENEFITS.—(1) The Secretary of Veterans Affairs shall provide the information described in paragraph (2) to each member of the Armed Forces at such times as the Secretary of Veterans Affairs and the Secretary of Defense shall jointly prescribe in regulations.

''(2) The information described in this paragraph is information on benefits, limitations, procedures, eligibility requirements (including time-in-service requirements), and other important aspects of educational assistance under this chapter, including application forms for such assistance under section 5102 of this title.

''(3) The Secretary of Veterans Affairs shall furnish the information and forms described in paragraph (2), and other educational materials on educational assistance under this chapter, to educational institutions, training establishments, military education personnel, and such other persons and entities as the Secretary considers appropriate.

''(c) REGULATIONS.—(1) The Secretary shall prescribe regulations for the administration of this chapter.

''(2) Any regulations prescribed by the Secretary of Defense for purposes of this chapter shall apply uniformly across the Armed Forces.

''§ 3324. Allocation of administration and costs

''(a) ADMINISTRATION.—Except as otherwise provided in this chapter, the Secretary shall administer the provision of educational assistance under this chapter.

''(b) COSTS.—Payments for entitlement to educational assistance earned under this chapter shall be made from funds appropriated to, or otherwise made available to, the Department of Veterans Affairs for the payment of readjustment benefits.''.

(2) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of title 38, United States Code, and at the beginning of part III of such title, are each amended by inserting after the item relating to chapter 32 the following new item:

''33. Post-9/11 Educational Assistance 3301''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS RELATING TO DUPLICATION OF BENEFITS.—

(A) Section 3033 of title 38, United States Code, is amended—

(i) in subsection (a)(1), by inserting ''33,'' after ''32,''; and

(ii) in subsection (c), by striking ''both the program established by this chapter and the program established by chapter 106 of title 10'' and inserting ''two or more of the programs established by this chapter, chapter 33 of this title, and chapters 1606 and 1607 of title 10''.

(B) Paragraph (4) of section 3695(a) of such title is amended to read as follows:

''(4) Chapters 30, 32, 33, 34, 35, and 36 of this title.''.

(C) Section 16163(e) of title 10, United States Code, is amended by inserting ''33,'' after ''32,''.

(2) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Title 38, United States Code, is further amended by inserting ''33,'' after ''32,'' each place it appears in the following provisions:

(i) In subsections (b) and (e)(1) of section 3485.

(ii) In section 3688(b).

(iii) In subsections (a)(1), (c)(1), (c)(1)(G), (d), and (e)(2) of section 3689.

(iv) In section 3690(b)(3)(A).

(v) In subsections (a) and (b) of section 3692.

(vi) In section 3697(a).

(B) Section 3697A(b)(1) of such title is amended by striking ''or 32'' and inserting ''32, or 33''.

(c) APPLICABILITY TO INDIVIDUALS UNDER MONTGOMERY GI BILL PROGRAM.—

(1) INDIVIDUALS ELIGIBLE TO ELECT PARTICIPATION IN POST-9/11 EDUCATIONAL ASSISTANCE.—An individual may elect to receive educational assistance under chapter 33 of title 38, United States Code (as added by subsection (a)), if such individual—

(A) as of August 1, 2009—

(i) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, and has used, but retains unused, entitlement under that chapter;

(ii) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, and has used, but retains unused, entitlement under the applicable chapter;

(iii) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, but has not used any entitlement under that chapter;

(iv) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, but has not used any entitlement under such chapter;

(v) is a member of the Armed Forces who is eligible for receipt of basic educational assistance under chapter 30 of title 38, United States Code, and is making contributions toward such assistance under section 3011(b) or 3012(c) of such title; or

(vi) is a member of the Armed Forces who is not entitled to basic educational assistance under chapter 30 of title 38, United States Code, by reason of an election under section 3011(c)(1) or 3012(d)(1) of such title; and

(B) as of the date of the individual's election under this paragraph, meets the requirements for entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added).

(2) CESSATION OF CONTRIBUTIONS TOWARD GI BILL.—Effective as of the first month beginning on or after the date of an election under paragraph (1) of an individual described by subparagraph (A)(v) of that paragraph, the obligation of the individual to make contributions under section 3011(b) or 3012(c) of title 38, United States Code, as applicable, shall cease, and the requirements of such section shall be deemed to be no longer applicable to the individual.

(3) REVOCATION OF REMAINING TRANSFERRED ENTITLEMENT.—

(A) ELECTION TO REVOKE.—If, on the date an individual described in subparagraph (A)(i) or (A)(iii) of paragraph (1) makes an election under that paragraph, a transfer of the entitlement of the individual to basic educational assistance under section 3020 of title 38, United States Code, is in effect and a number of months of the entitlement so transferred remain unutilized, the individual may elect to revoke all or a portion of the entitlement so transferred that remains unutilized.

(B) AVAILABILITY OF REVOKED ENTITLEMENT.—Any entitlement revoked by an individual under this paragraph shall no longer be available to the dependent to whom transferred, but shall be available to the individual instead for educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of this subsection.

(C) AVAILABILITY OF UNREVOKED ENTITLEMENT.—Any entitlement described in subparagraph (A) that is not revoked by an individual in accordance with that subparagraph shall remain available to the dependent or dependents concerned in accordance with the current transfer of such entitlement under section 3020 of title 38, United States Code.

(4) POST-9/11 EDUCATIONAL ASSISTANCE.—

(A) IN GENERAL.—Subject to subparagraph (B) and except as provided in paragraph (5), an individual making an election under paragraph (1) shall be entitled to educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of such chapter, instead of basic educational assistance under chapter 30 of title 38, United States Code, or educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, as applicable.

(B) LIMITATION ON ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual making an election under paragraph (1) who is described by subparagraph (A)(i) of that paragraph, the number of months of entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), shall be the number of months equal to—

(i) the number of months of unused entitlement of the individual under chapter 30 of title 38, United States Code, as of the date of the election, plus

(ii) the number of months, if any, of entitlement revoked by the individual under paragraph (3)(A).

(5) CONTINUING ENTITLEMENT TO EDUCATIONAL ASSISTANCE NOT AVAILABLE UNDER 9/11 ASSISTANCE PROGRAM.—

(A) IN GENERAL.—In the event educational assistance to which an individual making an election under paragraph (1) would be entitled under chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable, is not authorized to be available to the individual under the provisions of chapter 33 of title 38, United States Code (as so added), the individual shall remain entitled to such educational assistance in accordance with the provisions of the applicable chapter.

(B) CHARGE FOR USE OF ENTITLEMENT.—The utilization by an individual of entitlement under subparagraph (A) shall be chargeable against the entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), at the rate of one month of entitlement under such chapter 33 for each month of entitlement utilized by the individual under subparagraph (A) (as determined as if such entitlement were utilized under the provisions of chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable).

(6) ADDITIONAL POST-9/11 ASSISTANCE FOR MEMBERS HAVING MADE CONTRIBUTIONS TOWARD GI BILL.—

(A) ADDITIONAL ASSISTANCE.—In the case of an individual making an election under paragraph (1) who is described by clause (i), (iii), or (v) of subparagraph (A) of that paragraph, the amount of educational assistance payable to the individual under chapter 33 of title 38, United States Code (as so added), as a monthly stipend payable under paragraph (1)(B) of section 3313(c) of such title (as so added), or under paragraphs (2) through (7) of that section (as applicable), shall be the amount otherwise payable as a monthly stipend under the applicable paragraph increased by the amount equal to—

(i) the total amount of contributions toward basic educational assistance made by the individual under section 3011(b) or 3012(c) of title 38, United States Code, as of the date of the election, multiplied by

(ii) the fraction—

(I) the numerator of which is—

(aa) the number of months of entitlement to basic educational assistance under chapter 30 of title 38, United States Code, remaining to the individual at the time of the election; plus

(bb) the number of months, if any, of entitlement under such chapter 30 revoked by the individual under paragraph (3)(A); and

(II) the denominator of which is 36 months.

(B) MONTHS OF REMAINING ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual covered by subparagraph (A) who is described by paragraph (1)(A)(v), the number of months of entitlement to basic educational assistance remaining to the individual for purposes of subparagraph (A)(ii)(I)(aa) shall be 36 months.

(C) TIMING OF PAYMENT.—The amount payable with respect to an individual under subparagraph (A) shall be paid to the individual together with the last payment of the monthly stipend payable to the individual under paragraph (1)(B) of section 3313(c) of title 38, United States Code (as so added), or under paragraphs (2) through (7) of that section (as applicable), before the exhaustion of the individual's entitlement to educational assistance under chapter 33 of such title (as so added).

(7) CONTINUING ENTITLEMENT TO ADDITIONAL ASSISTANCE FOR CRITICAL SKILLS OR SPECIALITY AND ADDITIONAL SERVICE.—An individual making an election under paragraph (1)(A) who, at the time of the election, is entitled to increased educational assistance under section 3015(d) of title 38, United States Code, or section 16131(i) of title 10, United States Code, or supplemental educational assistance under subchapter III of chapter 30 of title 38, United States Code, shall remain entitled to such increased educational assistance or supplemental educational assistance in the utilization of entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added), in an amount equal to the quarter, semester, or term, as applicable, equivalent of the monthly amount of such increased educational assistance or supplemental educational assistance payable with respect to the individual at the time of the election.

(8) IRREVOCABILITY OF ELECTIONS.—An election under paragraph (1) or (3)(A) is irrevocable.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on August 1, 2009.

SEC. 4004. INCREASE IN AMOUNTS OF BASIC EDUCATIONAL ASSISTANCE UNDER THE MONTGOMERY GI BILL.

(a) EDUCATIONAL ASSISTANCE BASED ON THREE-YEAR PERIOD OF OBLIGATED SERVICE.—Subsection (a)(1) of section 3015 of title 38, United States Code, is amended—

(1) by striking subparagraphs (A) through (C) and inserting the following new subparagraph:

''(A) for months occurring during the period beginning on August 1, 2008, and ending on the last day of fiscal year 2009, $1,321; and''; and

(2) by redesignating subparagraph (D) as subparagraph (B).

(b) EDUCATIONAL ASSISTANCE BASED ON TWO-YEAR PERIOD OF OBLIGATED SERVICE.—Subsection (b)(1) of such section is amended—

(1) by striking subparagraphs (A) through (C) and inserting the following new subparagraph:

''(A) for months occurring during the period beginning on August 1, 2008, and ending on the last day of fiscal year 2009, $1,073; and''; and

(2) by redesignating subparagraph (D) as subparagraph (B).

(c) MODIFICATION OF MECHANISM FOR COST-OF-LIVING ADJUSTMENTS.—Subsection (h)(1) of such section is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

''(A) the average cost of undergraduate tuition in the United States, as determined by the National Center for Education Statistics, for the last academic year preceding the beginning of the fiscal year for which the increase is made, exceeds

''(B) the average cost of undergraduate tuition in the United States, as so determined, for the academic year preceding the academic year described in subparagraph (A).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on August 1, 2008.

(2) NO COST-OF-LIVING ADJUSTMENT FOR FISCAL YEAR 2009.—The adjustment required by subsection (h) of section 3015 of title 38, United States Code (as amended by this section), in rates of basic educational assistance payable under subsections (a) and (b) of such section (as so amended) shall not be made for fiscal year 2009.

SEC. 4005. MODIFICATION OF AMOUNT AVAILABLE FOR REIMBURSEMENT OF STATE AND LOCAL AGENCIES ADMINISTERING VETERANS EDUCATION BENEFITS.

Section 3674(a)(4) of title 38, United States Code, is amended by striking ''may not exceed'' and all that follows through the end and inserting ''shall be $19,000,000.''.

TITLE V—EMERGENCY UNEMPLOYMENT COMPENSATION

FEDERAL-STATE AGREEMENTS

SEC. 5001. (a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the ''Secretary''). Any State which is a party to an agreement under this title may, upon providing 30 days written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of emergency unemployment compensation to individuals who—

(1) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before May 1, 2007);

(2) have no rights to regular compensation or extended compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (except as provided under subsection (e)); and

(3) are not receiving compensation with respect to such week under the unemployment compensation law of Canada.

(c) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1), an individual shall be deemed to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period; or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT, ETC.—For purposes of any agreement under this title—

(1) the amount of emergency unemployment compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to such individual during such individual's benefit year under the State law for a week of total unemployment;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for emergency unemployment compensation and the payment thereof, except where otherwise inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of emergency unemployment compensation payable to any individual for whom an emergency unemployment compensation account is established under section 5002 shall not exceed the amount established in such account for such individual.

(e) ELECTION BY STATES.—Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State that is in an extended benefit period may provide for the payment of emergency unemployment compensation prior to extended compensation to individuals who otherwise meet the requirements of this section.

EMERGENCY UNEMPLOYMENT COMPENSATION ACCOUNT

SEC. 5002. (a) IN GENERAL.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for emergency unemployment compensation, an emergency unemployment compensation account with respect to such individual's benefit year.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the lesser of—

(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under such law, or

(B) 13 times the individual's average weekly benefit amount for the benefit year.

(2) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

(c) SPECIAL RULE.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, if, at the time that the individual's account is exhausted or at any time thereafter, such individual's State is in an extended benefit period (as determined under paragraph (2)), then, such account shall be augmented by an amount equal to the amount originally established in such account (as determined under subsection (b)(1)).

(2) EXTENDED BENEFIT PERIOD.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if—

(A) such a period is then in effect for such State under the Federal-State Extended Unemployment Compensation Act of 1970;

(B) such a period would then be in effect for such State under such Act if section 203(d) of such Act—

(i) were applied by substituting ''4'' for ''5'' each place it appears; and

(ii) did not include the requirement under paragraph (1)(A); or

(C) such a period would then be in effect for such State under such Act if—

(i) section 203(f) of such Act were applied to such State (regardless of whether the State by law had provided for such application); and

(ii) such section 203(f)—

(I) were applied by substituting ''6.0'' for ''6.5'' in paragraph (1)(A)(i); and

(II) did not include the requirement under paragraph (1)(A)(ii).

PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF EMERGENCY UNEMPLOYMENT COMPENSATION

SEC. 5003. (a) GENERAL RULE.—There shall be paid to each State that has entered into an agreement under this title an amount equal to 100 percent of the emergency unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) TREATMENT OF REIMBURSABLE COMPENSATION.—No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

(c) DETERMINATION OF AMOUNT.—Sums payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

FINANCING PROVISIONS

SEC. 5004. (a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a)) of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a)) shall be used for the making of payments to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the Government Accountability Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as so established) to the account of such State in the Unemployment Trust Fund (as so established).

(c) ASSISTANCE TO STATES.—There are appropriated out of the employment security administration account (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a)) of the Unemployment Trust Fund, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act (42 U.S.C. 501 et seq.)) in meeting the costs of administration of agreements under this title.

(d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

FRAUD AND OVERPAYMENTS

SEC. 5005. (a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of emergency unemployment compensation under this title to which such individual was not entitled, such individual—

(1) shall be ineligible for further emergency unemployment compensation under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of individuals who have received amounts of emergency unemployment compensation under this title to which they were not entitled, the State shall require such individuals to repay the amounts of such emergency unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such emergency unemployment compensation was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any emergency unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any State or Federal unemployment compensation law administered by the State agency or under any other State or Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the emergency unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

DEFINITIONS

SEC. 5006. In this title, the terms ''compensation'', ''regular compensation'', ''extended compensation'', ''benefit year'', ''base period'', ''State'', ''State agency'', ''State law'', and ''week'' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

APPLICABILITY

SEC. 5007. (a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending on or before March 31, 2009.

(b) TRANSITION FOR AMOUNT REMAINING IN ACCOUNT.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), in the case of an individual who has amounts remaining in an account established under section 5002 as of the last day of the last week (as determined in accordance with the applicable State law) ending on or before March 31, 2009, emergency unemployment compensation shall continue to be payable to such individual from such amounts for any week beginning after such last day for which the individual meets the eligibility requirements of this title.

(2) LIMIT ON AUGMENTATION.—If the account of an individual is exhausted after the last day of such last week (as so determined), then section 5002(c) shall not apply and such account shall not be augmented under such section, regardless of whether such individual's State is in an extended benefit period (as determined under paragraph (2) of such section).

(3) LIMIT ON COMPENSATION.—No compensation shall be payable by reason of paragraph (1) for any week beginning after June 30, 2009.

TITLE VI—OTHER HEALTH MATTERS

SEC. 6001. (a) MORATORIA ON CERTAIN MEDICAID REGULATIONS.—

(1) EXTENSION OF CERTAIN MORATORIA IN PUBLIC LAW 110–28.—Section 7002(a)(1) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28) is amended—

(A) by striking ''prior to the date that is 1 year after the date of enactment of this Act'' and inserting ''prior to April 1, 2009'';

(B) in subparagraph (A), by inserting after ''Federal Regulations)'' the following: ''or in the final regulation, relating to such parts, published on May 29, 2007 (72 Federal Register 29748)''; and

(C) in subparagraph (C), by inserting before the period at the end the following: '', including the proposed regulation published on May 23, 2007 (72 Federal Register 28930)''.

(2) EXTENSION OF CERTAIN MORATORIA IN PUBLIC LAW 110–173.—Section 206 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is amended—

(A) by striking ''June 30, 2008'' and inserting ''April 1, 2009'';

(B) by inserting '', including the proposed regulation published on August 13, 2007 (72 Federal Register 45201),'' after ''rehabilitation services''; and

(C) by inserting '', including the final regulation published on December 28, 2007 (72 Federal Register 73635),'' after ''school-based transportation''.

(3) MORATORIUM ON INTERIM FINAL MEDICAID REGULATION RELATING TO OPTIONAL CASE MANAGEMENT AND TARGETED CASE MANAGEMENT SERVICES.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, finalize, implement, enforce, or otherwise take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to impose any restrictions relating to the interim final regulation relating to optional State plan case management services and targeted case management services under the Medicaid program published on December 4, 2007 (72 Federal Register 68077) in its entirety.

(4) ADDITIONAL MORATORIA.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to impose any restrictions relating to a provision described in subparagraph (B) or (C) if such restrictions are more restrictive in any aspect than those applied to the respective provision as of the date specified in subparagraph (D) for such provision.

(B) PROPOSED REGULATION RELATING TO REDEFINITION OF MEDICAID OUTPATIENT HOSPITAL SERVICES.—The provision described in this subparagraph is the proposed regulation relating to clarification of outpatient clinic and hospital facility services definition and upper payment limit under the Medicaid program published on September 28, 2007 (72 Federal Register 55158) in its entirety.

(C) PORTION OF PROPOSED REGULATION RELATING TO MEDICAID ALLOWABLE PROVIDER TAXES.—

(i) IN GENERAL.—Subject to clause (ii), the provision described in this subparagraph is the final regulation relating to health-care-related taxes under the Medicaid program published on February 22, 2008 (73 Federal Register 9685) in its entirety.

(ii) EXCEPTION.—The provision described in this subparagraph does not include the portions of such regulation as relate to the following:

(I) REDUCTION IN THRESHOLD.—The reduction from 6 percent to 5.5 percent in the threshold applied under section 433.68(f)(3)(i) of title 42, Code of Federal Regulations, for determining whether or not there is an indirect guarantee to hold a taxpayer harmless, as required to carry out section 1903(w)(4)(C)(ii) of the Social Security Act, as added by section 403 of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109–432).

(II) CHANGE IN DEFINITION OF MANAGED CARE.—The change in the definition of managed care as proposed in the revision of section 433.56(a)(8) of title 42, Code of Federal Regulations, as required to carry out section 1903(w)(7)(A)(viii) of the Social Security Act, as amended by section 6051 of the Deficit Reduction Act of 2005 (Public Law 109–171).

(D) DATE SPECIFIED.—The date specified in this subparagraph for the provision described in—

(i) subparagraph (B) is September 27, 2007; or

(ii) subparagraph (C) is February 21, 2008.

(b) RESTORATION OF ACCESS TO NOMINAL DRUG PRICING FOR CERTAIN CLINICS AND HEALTH CENTERS.—

(1) IN GENERAL.—Section 1927(c)(1)(D) of the Social Security Act (42 U.S.C. §1396r–8(c)(1)(D)), as added by section 6001(d)(2) of the Deficit Reduction Act of 2005 (Public Law 109–171), is amended—

(A) in clause (i)—

(i) by redesignating subclause (IV) as subclause (VI); and

(ii) by inserting after subclause (III) the following:

''(IV) An entity that—

''(aa) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Act or is State-owned or operated; and

''(bb) would be a covered entity described in section 340(B)(a)(4) of the Public Health Service Act insofar as the entity provides the same type of services to the same type of populations as a covered entity described in such section provides, but does not receive funding under a provision of law referred to in such section.

''(V) A public or nonprofit entity, or an entity based at an institution of higher learning whose primary purpose is to provide health care services to students of that institution, that provides a service or services described under section 1001(a) of the Public Health Service Act.''; and

(B) by adding at the end the following new clause:

''(iv) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to alter any existing statutory or regulatory prohibition on services with respect to an entity described in subclause (IV) or (V) of clause (i), including the prohibition set forth in section 1008 of the Public Health Service Act.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendment made by section 6001(d)(2) of the Deficit Reduction Act of 2005.

(c) ASSET VERIFICATION THROUGH ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS.—

(1) ADDITION OF AUTHORITY.—Title XIX of the Social Security Act is amended by inserting after section 1939 the following new section:

''ASSET VERIFICATION THROUGH ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS

''SEC. 1940. (a) IMPLEMENTATION.—

''(1) IN GENERAL.—Subject to the provisions of this section, each State shall implement an asset verification program described in subsection (b), for purposes of determining or redetermining the eligibility of an individual for medical assistance under the State plan under this title.

''(2) PLAN SUBMITTAL.—In order to meet the requirement of paragraph (1), each State shall—

''(A) submit not later than a deadline specified by the Secretary consistent with paragraph (3), a State plan amendment under this title that describes how the State intends to implement the asset verification program; and

''(B) provide for implementation of such program for eligibility determinations and redeterminations made on or after 6 months after the deadline established for submittal of such plan amendment.

''(3) PHASE-IN.—

''(A) IN GENERAL.—

''(i) IMPLEMENTATION IN CURRENT ASSET VERIFICATION DEMO STATES.—The Secretary shall require those States specified in subparagraph (C) (to which an asset verification program has been applied before the date of the enactment of this section) to implement an asset verification program under this subsection by the end of fiscal year 2009.

''(ii) IMPLEMENTATION IN OTHER STATES.—The Secretary shall require other States to submit and implement an asset verification program under this subsection in such manner as is designed to result in the application of such programs, in the aggregate for all such other States, to enrollment of approximately, but not less than, the following percentage of enrollees, in the aggregate for all such other States, by the end of the fiscal year involved:

''(I) 12.5 percent by the end of fiscal year 2009.

''(II) 25 percent by the end of fiscal year 2010.

''(III) 50 percent by the end of fiscal year 2011.

''(IV) 75 percent by the end of fiscal year 2012.

''(V) 100 percent by the end of fiscal year 2013.

''(B) CONSIDERATION.—In selecting States under subparagraph (A)(ii), the Secretary shall consult with the States involved and take into account the feasibility of implementing asset verification programs in each such State.

''(C) STATES SPECIFIED.—The States specified in this subparagraph are California, New York, and New Jersey.

''(D) CONSTRUCTION.—Nothing in subparagraph (A)(ii) shall be construed as preventing a State from requesting, and the Secretary approving, the implementation of an asset verification program in advance of the deadline otherwise established under such subparagraph.

''(4) EXEMPTION OF TERRITORIES.—This section shall only apply to the 50 States and the District of Columbia.

''(b) ASSET VERIFICATION PROGRAM.—

''(1) IN GENERAL.—For purposes of this section, an asset verification program means a program described in paragraph (2) under which a State—

''(A) requires each applicant for, or recipient of, medical assistance under the State plan under this title on the basis of being aged, blind, or disabled to provide authorization by such applicant or recipient (and any other person whose resources are required by law to be disclosed to determine the eligibility of the applicant or recipient for such assistance) for the State to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act of 1978 but at no cost to the applicant or recipient) from any financial institution (within the meaning of section 1101(1) of such Act) any financial record (within the meaning of section 1101(2) of such Act) held by the institution with respect to the applicant or recipient (and such other person, as applicable), whenever the State determines the record is needed in connection with a determination with respect to such eligibility for (or the amount or extent of) such medical assistance; and

''(B) uses the authorization provided under subparagraph (A) to verify the financial resources of such applicant or recipient (and such other person, as applicable), in order to determine or redetermine the eligibility of such applicant or recipient for medical assistance under the State plan.

''(2) PROGRAM DESCRIBED.—A program described in this paragraph is a program for verifying individual assets in a manner consistent with the approach used by the Commissioner of Social Security under section 1631(e)(1)(B)(ii).

''(c) DURATION OF AUTHORIZATION.—Notwithstanding section 1104(a)(1) of the Right to Financial Privacy Act of 1978, an authorization provided to a State under subsection (b)(1)(A) shall remain effective until the earliest of—

''(1) the rendering of a final adverse decision on the applicant's application for medical assistance under the State's plan under this title;

''(2) the cessation of the recipient's eligibility for such medical assistance; or

''(3) the express revocation by the applicant or recipient (or such other person described in subsection (b)(1)(A), as applicable) of the authorization, in a written notification to the State.

''(d) TREATMENT OF RIGHT TO FINANCIAL PRIVACY ACT REQUIREMENTS.—

''(1) An authorization obtained by the State under subsection (b)(1) shall be considered to meet the requirements of the Right to Financial Privacy Act of 1978 for purposes of section 1103(a) of such Act, and need not be furnished to the financial institution, notwithstanding section 1104(a) of such Act.

''(2) The certification requirements of section 1103(b) of the Right to Financial Privacy Act of 1978 shall not apply to requests by the State pursuant to an authorization provided under subsection (b)(1).

''(3) A request by the State pursuant to an authorization provided under subsection (b)(1) is deemed to meet the requirements of section 1104(a)(3) of the Right to Financial Privacy Act of 1978 and of section 1102 of such Act, relating to a reasonable description of financial records.

''(e) REQUIRED DISCLOSURE.—The State shall inform any person who provides authorization pursuant to subsection (b)(1)(A) of the duration and scope of the authorization.

''(f) REFUSAL OR REVOCATION OF AUTHORIZATION.—If an applicant for, or recipient of, medical assistance under the State plan under this title (or such other person described in subsection (b)(1)(A), as applicable) refuses to provide, or revokes, any authorization made by the applicant or recipient (or such other person, as applicable) under subsection (b)(1)(A) for the State to obtain from any financial institution any financial record, the State may, on that basis, determine that the applicant or recipient is ineligible for medical assistance.

''(g) USE OF CONTRACTOR.—For purposes of implementing an asset verification program under this section, a State may select and enter into a contract with a public or private entity meeting such criteria and qualifications as the State determines appropriate, consistent with requirements in regulations relating to general contracting provisions and with section 1903(i)(2). In carrying out activities under such contract, such an entity shall be subject to the same requirements and limitations on use and disclosure of information as would apply if the State were to carry out such activities directly.

''(h) TECHNICAL ASSISTANCE.—The Secretary shall provide States with technical assistance to aid in implementation of an asset verification program under this section.

''(i) REPORTS.—A State implementing an asset verification program under this section shall furnish to the Secretary such reports concerning the program, at such times, in such format, and containing such information as the Secretary determines appropriate.

''(j) TREATMENT OF PROGRAM EXPENSES.—Notwithstanding any other provision of law, reasonable expenses of States in carrying out the program under this section shall be treated, for purposes of section 1903(a), in the same manner as State expenditures specified in paragraph (7) of such section.''.

(2) STATE PLAN REQUIREMENTS.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (69) by striking ''and'' at the end;

(B) in paragraph (70) by striking the period at the end and inserting ''; and''; and

(C) by inserting after paragraph (70), as so amended, the following new paragraph:

''(71) provide that the State will implement an asset verification program as required under section 1940.''.

(3) WITHHOLDING OF FEDERAL MATCHING PAYMENTS FOR NONCOMPLIANT STATES.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(A) in paragraph (22) by striking ''or'' at the end;

(B) in paragraph (23) by striking the period at the end and inserting ''; or''; and

(C) by adding after paragraph (23) the following new paragraph:

''(24) if a State is required to implement an asset verification program under section 1940 and fails to implement such program in accordance with such section, with respect to amounts expended by such State for medical assistance for individuals subject to asset verification under such section, unless—

''(A) the State demonstrates to the Secretary's satisfaction that the State made a good faith effort to comply;

''(B) not later than 60 days after the date of a finding that the State is in noncompliance, the State submits to the Secretary (and the Secretary approves) a corrective action plan to remedy such noncompliance; and

''(C) not later than 12 months after the date of such submission (and approval), the State fulfills the terms of such corrective action plan.''.

(4) REPEAL.—Section 4 of Public Law 110–90 is repealed.

SEC. 6002. LIMITATION ON MEDICARE EXCEPTION TO THE PROHIBITION ON CERTAIN PHYSICIAN REFERRALS FOR HOSPITALS.—

(a) IN GENERAL.—Section 1877 of the Social Security Act (42 U.S.C. 1395nn) is amended—

(1) in subsection (d)(2)—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(C) in the case where the entity is a hospital, the hospital meets the requirements of paragraph (3)(D).'';

(2) in subsection (d)(3)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(D) the hospital meets the requirements described in subsection (i)(1) not later than 18 months after the date of the enactment of this subparagraph.''; and

(3) by adding at the end the following new subsection:

''(i) REQUIREMENTS FOR HOSPITALS TO QUALIFY FOR HOSPITAL EXCEPTION TO OWNERSHIP OR INVESTMENT PROHIBITION.—

''(1) REQUIREMENTS DESCRIBED.—For purposes of subsection (d)(3)(D), the requirements described in this paragraph for a hospital are as follows:

''(A) PROVIDER AGREEMENT.—The hospital had—

''(i) physician ownership on September 1, 2008; and

''(ii) a provider agreement under section 1866 in effect on such date.

''(B) LIMITATION ON EXPANSION OF FACILITY CAPACITY.—Except as provided in paragraph (3), the number of operating rooms, procedure rooms, and beds of the hospital at any time on or after the date of the enactment of this subsection are no greater than the number of operating rooms, procedure rooms, and beds as of such date.

''(C) PREVENTING CONFLICTS OF INTEREST.—

''(i) The hospital submits to the Secretary an annual report containing a detailed description of—

''(I) the identity of each physician owner and any other owners of the hospital; and

''(II) the nature and extent of all ownership interests in the hospital.

''(ii) The hospital has procedures in place to require that any referring physician owner discloses to the patient being referred, by a time that permits the patient to make a meaningful decision regarding the receipt of care, as determined by the Secretary—

''(I) the ownership interest of such referring physician in the hospital; and

''(II) if applicable, any such ownership interest of the treating physician.

''(iii) The hospital does not condition any physician ownership interests either directly or indirectly on the physician owner making or influencing referrals to the hospital or otherwise generating business for the hospital.

''(iv) The hospital discloses the fact that the hospital is partially owned by physicians—

''(I) on any public website for the hospital; and

''(II) in any public advertising for the hospital.

''(D) ENSURING BONA FIDE INVESTMENT.—

''(i) Physician owners in the aggregate do not own more than the greater of—

''(I) 40 percent of the total value of the investment interests held in the hospital or in an entity whose assets include the hospital; or

''(II) the percentage of such total value determined on the date of enactment of this subsection.

''(ii) Any ownership or investment interests that the hospital offers to a physician owner are not offered on more favorable terms than the terms offered to a person who is not a physician owner.

''(iii) The hospital (or any investors in the hospital) does not directly or indirectly provide loans or financing for any physician owner investments in the hospital.

''(iv) The hospital (or any investors in the hospital) does not directly or indirectly guarantee a loan, make a payment toward a loan, or otherwise subsidize a loan, for any individual physician owner or group of physician owners that is related to acquiring any ownership interest in the hospital.

''(v) Investment returns are distributed to each investor in the hospital in an amount that is directly proportional to the ownership interest of such investor in the hospital.

''(vi) Physician owners do not receive, directly or indirectly, any guaranteed receipt of or right to purchase other business interests related to the hospital, including the purchase or lease of any property under the control of other investors in the hospital or located near the premises of the hospital.

''(vii) The hospital does not offer a physician owner the opportunity to purchase or lease any property under the control of the hospital or any other investor in the hospital on more favorable terms than the terms offered to an individual who is not a physician owner.

''(E) PATIENT SAFETY.—

''(i) Insofar as the hospital admits a patient and does not have any physician available on the premises to provide services during all hours in which the hospital is providing services to such patient, before admitting the patient—

''(I) the hospital discloses such fact to a patient; and

''(II) following such disclosure, the hospital receives from the patient a signed acknowledgment that the patient understands such fact.

''(ii) The hospital has the capacity to—

''(I) provide assessment and initial treatment for patients; and

''(II) refer and transfer patients to hospitals with the capability to treat the needs of the patient involved.

''(F) LIMITATION ON APPLICATION TO CERTAIN CONVERTED FACILITIES.—The hospital was not converted from an ambulatory surgical center to a hospital on or after the date of enactment of this subsection.

''(2) PUBLICATION OF INFORMATION REPORTED.—The Secretary shall publish, and update on an annual basis, the information submitted by hospitals under paragraph (1)(C)(i) on the public Internet website of the Centers for Medicare & Medicaid Services.

''(3) EXCEPTION TO PROHIBITION ON EXPANSION OF FACILITY CAPACITY.—

''(A) PROCESS.—

''(i) ESTABLISHMENT.—The Secretary shall establish and implement a process under which an applicable hospital (as defined in subparagraph (E)) may apply for an exception from the requirement under paragraph (1)(B).

''(ii) OPPORTUNITY FOR COMMUNITY INPUT.—The process under clause (i) shall provide individuals and entities in the community that the applicable hospital applying for an exception is located with the opportunity to provide input with respect to the application.

''(iii) TIMING FOR IMPLEMENTATION.—The Secretary shall implement the process under clause (i) on November 1, 2009.

''(iv) REGULATIONS.—Not later than November 1, 2009, the Secretary shall promulgate regulations to carry out the process under clause (i).

''(B) FREQUENCY.—The process described in subparagraph (A) shall permit an applicable hospital to apply for an exception up to once every 2 years.

''(C) PERMITTED INCREASE.—

''(i) IN GENERAL.—Subject to clause (ii) and subparagraph (D), an applicable hospital granted an exception under the process described in subparagraph (A) may increase the number of operating rooms, procedure rooms, and beds of the applicable hospital above the baseline number of operating rooms, procedure rooms, and beds of the applicable hospital (or, if the applicable hospital has been granted a previous exception under this paragraph, above the number of operating rooms, procedure rooms, and beds of the hospital after the application of the most recent increase under such an exception).

''(ii) LIFETIME 100 PERCENT INCREASE LIMITATION.—The Secretary shall not permit an increase in the number of operating rooms, procedure rooms, and beds of an applicable hospital under clause (i) to the extent such increase would result in the number of operating rooms, procedure rooms, and beds of the applicable hospital exceeding 200 percent of the baseline number of operating rooms, procedure rooms, and beds of the applicable hospital.

''(iii) BASELINE NUMBER OF OPERATING ROOMS, PROCEDURE ROOMS, AND BEDS.—In this paragraph, the term 'baseline number of operating rooms, procedure rooms, and beds' means the number of operating rooms, procedure rooms, and beds of the applicable hospital as of the date of enactment of this subsection.

''(D) INCREASE LIMITED TO FACILITIES ON THE MAIN CAMPUS OF THE HOSPITAL.—Any increase in the number of operating rooms, procedure rooms, and beds of an applicable hospital pursuant to this paragraph may only occur in facilities on the main campus of the applicable hospital.

''(E) APPLICABLE HOSPITAL.—In this paragraph, the term ''applicable hospital'' means a hospital—

''(i) that is located in a county in which the percentage increase in the population during the most recent 5-year period (as of the date of the application under subparagraph (A)) is at least 150 percent of the percentage increase in the population growth of the State in which the hospital is located during that period, as estimated by Bureau of the Census;

''(ii) whose annual percent of total inpatient admissions that represent inpatient admissions under the program under title XIX is equal to or greater than the average percent with respect to such admissions for all hospitals located in the county in which the hospital is located;

''(iii) that does not discriminate against beneficiaries of Federal health care programs and does not permit physicians practicing at the hospital to discriminate against such beneficiaries;

''(iv) that is located in a State in which the average bed capacity in the State is less than the national average bed capacity; and

''(v) that has an average bed occupancy rate that is greater than the average bed occupancy rate in the State in which the hospital is located.

''(F) PROCEDURE ROOMS.—In this subsection, the term 'procedure rooms' includes rooms in which catheterizations, angiographies, angiograms, and endoscopies are performed, except such term shall not include emergency rooms or departments (exclusive of rooms in which catheterizations, angiographies, angiograms, and endoscopies are performed).

''(G) PUBLICATION OF FINAL DECISIONS.—Not later than 60 days after receiving a complete application under this paragraph, the Secretary shall publish in the Federal Register the final decision with respect to such application.

''(H) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of the process under this paragraph (including the establishment of such process).

''(4) COLLECTION OF OWNERSHIP AND INVESTMENT INFORMATION.—For purposes of subparagraphs (A)(i) and (D)(i) of paragraph (1), the Secretary shall collect physician ownership and investment information for each hospital.

''(5) PHYSICIAN OWNER DEFINED.—For purposes of this subsection, the term 'physician owner' means a physician (or an immediate family member of such physician) with a direct or an indirect ownership interest in the hospital.''.

(b) ENFORCEMENT.—

(1) ENSURING COMPLIANCE.—The Secretary of Health and Human Services shall establish policies and procedures to ensure compliance with the requirements described in subsection (i)(1) of section 1877 of the Social Security Act, as added by subsection (a)(3), beginning on the date such requirements first apply. Such policies and procedures may include unannounced site reviews of hospitals.

(2) AUDITS.—Beginning not later than January 1, 2010, the Secretary of Health and Human Services shall conduct audits to determine if hospitals violate the requirements referred to in paragraph (1).

SEC. 6003. Medicare Improvement Fund.—

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

''MEDICARE IMPROVEMENT FUND

''SEC. 1898. (a) ESTABLISHMENT.—The Secretary shall establish under this title a Medicare Improvement Fund (in this section referred to as the 'Fund') which shall be available to the Secretary to make improvements under the original fee-for-service program under parts A and B for individuals entitled to, or enrolled for, benefits under part A or enrolled under part B.

''(b) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Fund, for expenditures from the Fund for services furnished during fiscal year 2014, $3,340,000,000.

''(2) PAYMENT FROM TRUST FUNDS.—The amount specified under paragraph (1) shall be available to the Fund, as expenditures are made from the Fund, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines appropriate.

''(3) FUNDING LIMITATION.—Amounts in the Fund shall be available in advance of appropriations but only if the total amount obligated from the Fund does not exceed the amount available to the Fund under paragraph (1). The Secretary may obligate funds from the Fund only if the Secretary determines (and the Chief Actuary of the Centers for Medicare & Medicaid Services and the appropriate budget officer certify) that there are available in the Fund sufficient amounts to cover all such obligations incurred consistent with the previous sentence.''.

SEC. 6004. MORATORIUM ON AUGUST 17, 2007 CMS DIRECTIVE. Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, finalize, implement, enforce, or otherwise take any action to give effect to any or all components of the State Health Official Letter 07–001, dated August 17, 2007, issued by the Director of the Center for Medicaid and State Operations in the Centers for Medicare & Medicaid Services regarding certain requirements under the State Children's Health Insurance Program (CHIP) relating to the prevention of the substitution of health benefits coverage for children (commonly referred to as ''crowd-out'') and the enforcement of medical support orders (or to any similar administrative actions that reflect the same or similar policies set forth in such letter). Any change made on or after August 17, 2007, to a Medicaid or CHIP State plan or waiver to implement, conform to, or otherwise adhere to the requirements or policies in such letter shall not apply prior to April 1, 2009.

SEC. 6005. ADJUSTMENT TO PAQI FUND. Section 1848(l)(2) of the Social Security Act (42 U.S.C. 1395w–4(l)(2)), as amended by section 101(a)(2) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended—

(1) in subparagraph (A)(i)—

(A) in subclause (III), by striking ''$4,960,000,000'' and inserting ''$3,940,000,000''; and

(B) by adding at the end the following new subclause:

''(IV) For expenditures during 2014, an amount equal to $3,750,000,000.'';

(2) in subparagraph (A)(ii), by adding at the end the following new subclause:

''(IV) 2014.—The amount available for expenditures during 2014 shall only be available for an adjustment to the update of the conversion factor under subsection (d) for that year.''; and

(3) in subparagraph (B)—

(A) in clause (ii), by striking ''and'' at the end;

(B) in clause (iii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new clause:

''(iv) 2014 for payment with respect to physicians' services furnished during 2014.''.

TITLE VII—ACCOUNTABILITY AND COMPETITION IN GOVERNMENT CONTRACTING

CHAPTER 1—CLOSE THE CONTRACTOR FRAUD LOOPHOLE

SHORT TITLE

SEC. 7101. This chapter may be cited as the ''Close the Contractor Fraud Loophole Act''.

REVISION OF THE FEDERAL ACQUISITION REGULATION

SEC. 7102. The Federal Acquisition Regulation shall be amended within 180 days after the date of the enactment of this Act pursuant to FAR Case 2007–006 (as published at 72 Fed Reg. 64019, November 14, 2007) or any follow-on FAR case to include provisions that require timely notification by Federal contractors of violations of Federal criminal law or overpayments in connection with the award or performance of covered contracts or subcontracts, including those performed outside the United States and those for commercial items.

DEFINITION

SEC. 7103. In this chapter, the term ''covered contract'' means any contract in an amount greater than $5,000,000 and more than 120 days in duration.

CHAPTER 2—GOVERNMENT FUNDING TRANSPARENCY

SHORT TITLE

SEC. 7201. This chapter may be cited as the ''Government Funding Transparency Act of 2008''.

FINANCIAL DISCLOSURE REQUIREMENTS FOR CERTAIN RECIPIENTS OF FEDERAL AWARDS

SEC. 7202. (a) DISCLOSURE REQUIREMENTS.—Section 2(b)(1) of the Federal Funding Accountability and Transparency Act (Public Law 109–282; 31 U.S.C. 6101 note) is amended—

(1) by striking ''and'' at the end of subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following new subparagraph:

''(F) the names and total compensation of the five most highly compensated officers of the entity if—

''(i) the entity in the preceding fiscal year received—

''(I) 80 percent or more of its annual gross revenues in Federal awards; and

''(II) $25,000,000 or more in annual gross revenues from Federal awards; and

''(ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.''.

(b) REGULATIONS REQUIRED.—The Director of the Office of Management and Budget shall promulgate regulations to implement the amendment made by this chapter. Such regulations shall include a definition of ''total compensation'' that is consistent with regulations of the Securities and Exchange Commission at section 402 of part 229 of title 17 of the Code of Federal Regulations (or any subsequent regulation).

TITLE VIII—EMERGENCY AGRICULTURE RELIEF

SEC. 8001. DEFINITIONS.

In this title:

(1) AGRICULTURAL EMPLOYMENT.—The term ''agricultural employment'' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security.

(3) EMERGENCY AGRICULTURAL WORKER STATUS.—The term ''emergency agricultural worker status'' means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 8011(a).

(4) EMPLOYER.—The term ''employer'' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(5) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Homeland Security.

(6) WORK DAY.—The term ''work day'' means any day in which the individual is employed 5.75 or more hours in agricultural employment.

SEC. 8002. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act.

(b) EXCEPTION.—Sections 8021 and 8031 shall take effect on the date that is 1 year after the date of the enactment of this Act.

Subtitle A—Emergency Agricultural Workers

SEC. 8011. REQUIREMENTS FOR EMERGENCY AGRICULTURAL WORKER STATUS.

(a) REQUIREMENT TO GRANT EMERGENCY AGRICULTURAL WORKER STATUS.—Notwithstanding any other provision of law, the Secretary shall, pursuant to the requirements of this section, grant emergency agricultural worker status to an alien who qualifies under this section if the Secretary determines that the alien—

(1) during the 48-month period ending on December 31, 2007—

(A) performed agricultural employment in the United States for at least 863 hours or 150 work days; or

(B) earned at least $7,000 from agricultural employment;

(2) applied for emergency agricultural worker status during the 18-month application period beginning on the first day of the seventh month that begins after the date of the enactment of this Act;

(3) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under section 8014; and

(4) has not been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or damage to property in excess of $500.

(b) AUTHORIZED TRAVEL.—An alien who is granted emergency agricultural worker status is authorized to travel outside the United States (including commuting to the United States from a residence in a foreign country) in the same manner as an alien lawfully admitted for permanent residence.

(c) AUTHORIZED EMPLOYMENT.—The Secretary shall provide an alien who is granted emergency agricultural worker status an employment authorized endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(d) TERMINATION OF EMERGENCY AGRICULTURAL WORKER STATUS.—The Secretary shall terminate emergency agricultural worker status if—

(1) the Secretary determines that the alien is deportable;

(2) the Secretary finds, by a preponderance of the evidence, that the adjustment to emergency agricultural worker status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)));

(3) the alien—

(A) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under section 8014;

(B) is convicted of a felony or at least 3 misdemeanors committed in the United States;

(C) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500; or

(D) fails to pay any applicable Federal tax liability pursuant to section 8012(d); or

(4) the Secretary determines that the alien has not fulfilled the work requirement described in subsection (e) during any 1-year period in which the alien was in such status and the Secretary has not waived such requirement under subsection (e)(3).

(e) WORK REQUIREMENT.—

(1) IN GENERAL.—An alien shall perform at least 100 work days of agricultural employment per year to maintain emergency agricultural worker status under this section.

(2) PROOF.—An alien may demonstrate compliance with the requirement under paragraph (1) by submitting—

(A) the record of employment described in paragraph (4); or

(B) the documentation described in section 8013(c)(1).

(3) WAIVER FOR EXTRAORDINARY CIRCUMSTANCES.—

(A) IN GENERAL.—The Secretary may waive the requirement under paragraph (1) for any year in which the alien was unable to work in agricultural employment due to—

(i) pregnancy, injury, or disease, if the alien can establish such pregnancy, disabling injury, or disease through medical records;

(ii) illness, disease, or other special needs of a minor child, if the alien can establish such illness, disease, or special needs through medical records;

(iii) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time; or

(iv) termination from agricultural employment without just cause, if the alien establishes that he or she was unable to find alternative agricultural employment after a reasonable job search.

(B) LIMITATION.—A waiver granted under subparagraph (A)(iv) shall not be conclusive, binding, or admissible in a separate or subsequent action or proceeding between the employee and the employee's current or prior employer.

(4) RECORD OF EMPLOYMENT.—

(A) REQUIREMENT.—Each employer of an alien granted emergency agricultural worker status shall annually provide—

(i) a written record of employment to the alien; and

(ii) a copy of such record to the Secretary.

(B) CIVIL PENALTIES.—

(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted emergency agricultural worker status has failed to provide the record of employment required under subparagraph (A) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(f) REQUIRED FEATURES OF IDENTITY CARD.—The Secretary shall provide each

alien granted emergency agricultural worker status, and the spouse and any child of each such alien residing in the United States, with a card that contains—

(1) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(2) biometric identifiers, including fingerprints and a digital photograph; and

(3) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(g) FINE.—An alien granted emergency agricultural worker status shall pay a fine of $250 to the Secretary.

(h) MAXIMUM NUMBER.—The Secretary may not issue more than 1,350,000 emergency agricultural worker cards during the 5-year period beginning on the date of the enactment of this Act.

(i) MAXIMUM LENGTH OF EMERGENCY AGRICULTURAL WORKER STATUS.—Emergency agricultural worker status granted under this section shall continue until the earlier of—

(1) the date on which such status is terminated pursuant to subsection (d); or

(2) 5 years after the date on which such status is granted.

SEC. 8012. TREATMENT OF ALIENS GRANTED EMERGENCY AGRICULTURAL WORKER STATUS.

(a) IN GENERAL.—Except as otherwise provided under this section, an alien granted emergency agricultural worker status (including a spouse or child granted derivative status) shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(b) INELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien granted emergency agricultural worker status (including a spouse or child granted derivative status) shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) while in such status.

(c) FEDERAL TAX LIABILITY APPLIES.—

(1) IN GENERAL.—An alien granted emergency agricultural worker status shall pay any applicable Federal tax liability, including penalties and interest, owed for any year during the period of employment required under section 8011(e) for which the statutory period for assessment of any deficiency for such taxes has not expired.

(2) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all taxes required under this subsection.

(d) TREATMENT OF SPOUSES AND MINOR CHILDREN.—

(1) GRANTING OF STATUS AND REMOVAL.—The Secretary shall grant derivative status to the alien spouse and any minor child residing in the United States of an alien granted emergency agricultural worker status and shall not remove such derivative spouse or child during the period in which the principal alien maintains such status, except as provided in paragraph (4). A grant of derivative status to such a spouse or child under this subparagraph shall not decrease the number of aliens who may receive emergency agricultural worker status under section 8011(h).

(2) TRAVEL.—The derivative spouse and any minor child of an alien granted emergency agricultural worker status may travel outside the United States in the same manner as an alien lawfully admitted for permanent residence.

(3) EMPLOYMENT.—The derivative spouse of an alien granted emergency agricultural worker status may apply to the Secretary for a work permit to authorize such spouse to engage in any lawful employment in the United States while such alien maintains emergency agricultural worker status.

(4) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.—The Secretary shall deny an alien spouse or child adjustment of status under paragraph (1) and shall remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(A) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under section 8014;

(B) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(C) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(e) ADJUSTMENT OF STATUS.—Nothing in this Act may be construed to prevent an alien from seeking adjustment of status in accordance with any other provision of law if the alien is otherwise eligible for such adjustment of status.

SEC. 8013. APPLICATIONS.

(a) SUBMISSION.—Applications for emergency agricultural worker status may be submitted to—

(1) the Secretary, if the applicant is represented by an attorney or a nonprofit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(2) a qualified designated entity if the applicant consents to the forwarding of the application to the Secretary.

(b) QUALIFIED DESIGNATED ENTITY DEFINED.—In this section, the term ''qualified designated entity'' means—

(1) a qualified farm labor organization or an association of employers designated by the Secretary; or

(2) any such other person designated by the Secretary if the Secretary determines such person is qualified and has substantial experience, demonstrated competence, and a history of long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act (8 U.S.C. 1159, 1160, and 1255), the Act entitled ''An Act to adjust the status of Cuban refugees to that of lawful permanent residents of the United States, and for other purposes'', approved November 2, 1966 (Public Law 89–732; 8 U.S.C. 1255 note), Public Law 95–145 (8 U.S.C. 1255 note), or the Immigration Reform and Control Act of 1986 (Public Law 99–603; 100 Stat. 3359) or any amendment made by that Act.

(c) PROOF OF ELIGIBILITY.—

(1) IN GENERAL.—An alien may establish that the alien meets the requirement of subsections (a)(1) and (e)(1) of section 8011 through government employment records or records supplied by employers or collective bargaining organizations, and such other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(2) DOCUMENTATION OF WORK HISTORY.—

(A) BURDEN OF PROOF.—An alien applying for emergency agricultural worker status has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days required under section 8011(a)(1).

(B) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under subparagraph (A) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(C) SUFFICIENT EVIDENCE.—An alien may meet the burden of proof under subparagraph (A) to establish that the alien has performed the days or hours of work required under section 8011(a)(1) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(d) APPLICATIONS SUBMITTED TO QUALIFIED DESIGNATED ENTITIES.—

(1) REQUIREMENTS.—Each qualified designated entity shall agree—

(A) to forward to the Secretary an application submitted to that entity pursuant to subsection (a)(2) if the applicant has consented to such forwarding;

(B) not to forward to the Secretary any such application if the applicant has not consented to such forwarding; and

(C) to assist an alien in obtaining documentation of the alien's work history, if the alien requests such assistance.

(2) NO AUTHORITY TO MAKE DETERMINATIONS.—No qualified designated entity may make a determination required under this title to be made by the Secretary.

(e) LIMITATION ON ACCESS TO INFORMATION.—Files and records collected or compiled by a qualified designated entity for the purposes of this section are confidential and the Secretary shall not have access to such a file or record relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to subsection (f).

(f) CONFIDENTIALITY OF INFORMATION.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary or any other official or employee of the Department or a bureau or agency of the Department is prohibited from—

(A) using information furnished by the applicant pursuant to an application filed under this title, the information provided by an applicant to a qualified designated entity, or any information provided by an employer or former employer for any purpose other than to make a determination on the application or for imposing the penalties described in subsection (g);

(B) making any publication in which the information furnished by any particular individual can be identified; or

(C) permitting a person other than a sworn officer or employee of the Department or a bureau or agency of the Department or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(2) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished under this title or any other information derived from such furnished information to—

(A) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; and

(B) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(3) CONSTRUCTION.—

(A) IN GENERAL.—Nothing in this subsection shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes, of information contained in files or records of the Department pertaining to an application filed under this section, other than information furnished by an applicant pursuant to

the application, or any other information derived from the application, that is not available from any other source.

(B) CRIMINAL CONVICTIONS.—Notwithstanding any other provision of this subsection, information concerning whether the alien applying for emergency agricultural worker status has been convicted of a crime at any time may be used or released for immigration enforcement or law enforcement purposes.

(4) CRIME.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this subsection shall be subject to a fine in an amount not to exceed $10,000.

(g) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(1) CRIMINAL PENALTY.—Any person who—

(A) files an application for emergency agricultural worker status and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or

(B) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(h) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for emergency agricultural worker status.

(i) APPLICATION FEES.—

(1) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(A) shall be charged for the filing of an application for emergency agricultural worker status; and

(B) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(2) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under paragraph (1)(B) for services provided to applicants.

(3) DISPOSITION OF FEES.—

(A) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the ''Agricultural Worker Immigration Status Adjustment Account''. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under paragraph (1)(A).

(B) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the ''Agricultural Worker Immigration Status Adjustment Account'' shall remain available to the Secretary until expended for processing applications for emergency agricultural worker status.

SEC. 8014. WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.

(a) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for emergency agricultural worker status, the following rules shall apply:

(1) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(2) WAIVER OF OTHER GROUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(B) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C), (2)(D), (2)(G), (2)(H), (2)(I), (3), and (4) of such section 212(a) may not be waived by the Secretary under subparagraph (A).

(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(3) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for emergency agricultural worker status by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(b) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of the enactment of this Act, an alien who is apprehended before the beginning of the application period described in section 8011(a)(2) and who can establish a nonfrivolous case of eligibility for emergency agricultural worker status (but for the fact that the alien may not apply for such status until the beginning of such period)—

(A) may not be removed until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for such status; and

(B) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—An alien who presents a nonfrivolous application for emergency agricultural worker status during the application period described in section 8011(a)(2), including an alien who files such an application not later than 30 days after the alien's apprehension—

(A) may not be removed until a final determination on the application has been made in accordance with this section; and

(B) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

SEC. 8015. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for emergency agricultural worker status under this title.

(b) ADMINISTRATIVE REVIEW.—

(1) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(2) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(c) JUDICIAL REVIEW.—

(1) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(2) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

SEC. 8016. DISSEMINATION OF INFORMATION.

Beginning not later than the first day of the application period described in section 8011(a)(2), the Secretary, in cooperation with qualified designated entities (as that term is defined in section 8013(b)), shall broadly disseminate information respecting the benefits that aliens may receive under this title and the requirements that an alien is required to meet to receive such benefits.

SEC. 8017. RULEMAKING; EFFECTIVE DATE; AUTHORIZATION OF APPROPRIATIONS.

(a) RULEMAKING.—The Secretary shall issue regulations to implement this title not later than the first day of the seventh month that begins after the date of the enactment of this Act.

(b) EFFECTIVE DATE.—Except as otherwise provided, this title shall take effect on the date that regulations required under subsection (a) are issued, regardless of whether such regulations are issued on an interim basis or on any other basis.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal years 2008 and 2009 such sums as may be necessary to implement this title.

SEC. 8018. PRECLUSION OF SOCIAL SECURITY CREDITS FOR PERIODS WITHOUT WORK AUTHORIZATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by adding at the end the following:

''(d)(1) Except as provided in paragraph (2), for purposes of subsections (a) and (b), no quarter of coverage shall be credited for any calendar year beginning on or after January 1, 2004, with respect to an individual granted emergency agricultural worker status under section 8011 of the Emergency Agriculture Relief Act of 2008, unless the Commissioner of Social Security determines, on the basis of information provided to the Commissioner in accordance with an agreement under subsection (e) or otherwise, that the individual was authorized to be employed in the United States during such quarter.

''(2) Paragraph (1) shall not apply to an individual who was assigned a social security account number before January 1, 2004.

''(e) Not later than 180 days after the date of the enactment of this subsection, the Secretary of Homeland Security shall enter into an agreement with the Commissioner of Social Security to provide such information as the Commissioner determines necessary to carry out the limitation on crediting quarters of coverage under subsection (d).''.

(b) BENEFIT COMPUTATION.—Section 215(e) of the Social Security Act (42 U.S.C. 415(e)) is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) in computing the average indexed monthly earnings of an individual, wages or self-employment income shall not be counted for any year for which no quarter of coverage may be credited to such individual pursuant to section 214(d).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit applications filed on or after the date that is 180 days after the date of the enactment of this Act based on the wages or self-employment income of an individual with respect to whom a primary insurance amount has not been determined under title II of the Social Security Act (42 U.S.C. 401 et seq.) before such date.

SEC. 8019. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) IN GENERAL.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking ''or'' at the end;

(2) in subparagraph (C), by inserting ''or'' at the end;

(3) by inserting after subparagraph (C) the following:

''(D) who is granted emergency agricultural worker status under the Emergency Agriculture Relief Act of 2008,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted emergency agricultural worker status.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

Subtitle B—H–2A Worker Program

SEC. 8021. REFORM OF H–2A WORKER PROGRAM.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by striking section 218 and inserting the following:

''SEC. 218. H–2A EMPLOYER APPLICATIONS.

''(a) APPLICATIONS TO THE SECRETARY OF LABOR.—

''(1) IN GENERAL.—No alien may be admitted to the United States as an H–2A worker, or otherwise provided status as an H–2A worker, unless the employer has filed with the Secretary of Labor an application containing—

''(A) the assurances described in subsection (b);

''(B) a description of the nature and location of the work to be performed;

''(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

''(D) the number of job opportunities in which the employer seeks to employ the workers.

''(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

''(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

''(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

''(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

''(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

''(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

''(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

''(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer has applied for an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218A to all workers employed in the job opportunities for which the employer has applied for an H–2A worker under subsection (a) and to all other workers in the same occupation at the place of employment.

''(D) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer has applied for an H–2A worker.

''(E) REQUIREMENTS FOR PLACEMENT OF THE NONIMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

''(i) the nonimmigrant performs duties in whole or in part at 1 or more worksites owned, operated, or controlled by such other employer;

''(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

''(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

''(F) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

''(G) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(H) EMPLOYMENT OF UNITED STATES WORKERS.—

''(i) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H–2A nonimmigrant is, or H–2A nonimmigrants are, sought:

''(I) CONTACTING FORMER WORKERS.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

''(II) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on 'America's Job Bank' or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

''(III) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

''(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H–2A workers could not reasonably have been foreseen.

''(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrants are, sought and who will be available at the time and place of need.

''(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the H–2A worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the H–2A worker who is in the job was hired has elapsed, subject to the following requirements:

''(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H–2A workers in order to force the hiring of United States workers under this clause.

''(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

''(III) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

''(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

''(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

''(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218A, 218B, and 218C.

''(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

''(d) WITHDRAWAL OF APPLICATIONS.—

''(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

''(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

''(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H–2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

''(e) REVIEW AND APPROVAL OF APPLICATIONS.—

''(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or worksite, a copy of each such application (and such accompanying documents as are necessary).

''(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

''(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under subsection (a). Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

''(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.''

''SEC. 218A. H–2A WORKER EMPLOYMENT REQUIREMENTS.

''(a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

''(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

''(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

''(A) IN GENERAL.—An employer applying under section 218(a) for H–2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

''(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

''(C) FAMILY HOUSING.—If it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

''(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

''(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

''(F) CHARGES FOR HOUSING.—

''(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

''(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

''(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

''(i) IN GENERAL.—If the requirement set out in clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

''(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers and H–2A workers who are seeking temporary housing while employed in agricultural work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

''(iii) AMOUNT OF ALLOWANCE.—

''(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market

rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(2) REIMBURSEMENT OF TRANSPORTATION.—

''(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

''(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

''(C) LIMITATION.—

''(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

''(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

''(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

''(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

''(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

''(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORKSITE.—The employer shall provide transportation between the worker's living quarters and the employer's worksite without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

''(3) REQUIRED WAGES.—

''(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

''(B) LIMITATION.—Effective on the date of the enactment of the Emergency Agriculture Relief Act of 2008 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2008, as established by section 655.107 of title 20, Code of Federal Regulations.

''(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—If Congress does not set a new wage standard applicable to this section before March 1, 2012, the adverse effect wage rate for each State beginning on March 1, 2012 shall be the wage rate that would have resulted under the methodology in effect on January 1, 2008.

''(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

''(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

''(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

''(i) the worker's total earnings for the pay period;

''(ii) the worker's hourly rate of pay, piece rate of pay, or both;

''(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the ¾ guarantee described in paragraph (4);

''(iv) the hours actually worked by the worker;

''(v) an itemization of the deductions made from the worker's wages; and

''(vi) if piece rates of pay are used, the units produced daily.

''(G) REPORT ON WAGE PROTECTIONS.—Not later than December 31, 2010, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

''(i) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

''(v) recommendations for future wage protection under this section.

''(H) COMMISSION ON WAGE STANDARDS.—

''(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H–2A program (in this subparagraph referred to as the 'Commission').

''(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

''(I) Four representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

''(II) Four representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

''(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

''(I) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

''(V) recommendations for future wage protection under this section.

''(iv) FINAL REPORT.—Not later than December 31, 2010, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

''(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

''(4) GUARANTEE OF EMPLOYMENT.—

''(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least ¾ of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

''(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

''(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the '¾ guarantee' described in subparagraph (A).

''(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including a flood, hurricane, freeze, earthquake, fire, drought,

plant or animal disease or pest infestation, or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

''(5) MOTOR VEHICLE SAFETY.—

''(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

''(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H–2A employer that uses or causes to be used any vehicle to transport an H–2A worker within the United States.

''(ii) DEFINED TERM.—In this paragraph, the term 'uses or causes to be used'—

''(I) applies only to transportation provided by an H–2A employer to an H–2A worker, or by a farm labor contractor to an H–2A worker at the request or direction of an H–2A employer; and

''(II) does not apply to—

''(aa) transportation provided, or transportation arrangements made, by an H–2A worker, unless the employer specifically requested or arranged such transportation; or

''(bb) car pooling arrangements made by H–2A workers themselves, using 1 of the workers' own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

''(iii) CLARIFICATION.—Providing a job offer to an H–2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H–2A worker by an H–2A employer, shall not constitute an arrangement of, or participation in, such transportation.

''(iv) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H–2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

''(v) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

''(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

''(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

''(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

''(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

''(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H–2A worker.

''(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

''(iii) EFFECT OF WORKERS' COMPENSATION COVERAGE.—If the employer of any H–2A worker provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

''(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

''(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

''(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

''(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer's application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

''(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218B shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

''SEC. 218B. PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H–2A WORKERS.

''(a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

''(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

''(c) CRITERIA FOR ADMISSIBILITY.—

''(1) IN GENERAL.—An H–2A worker shall be considered admissible to the United States if the alien is otherwise admissible under this section, section 218, and section 218A, and the alien is not ineligible under paragraph (2).

''(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

''(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

''(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

''(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

''(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H–2A status, but may not be granted that status in the United States.

''(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

''(d) PERIOD OF ADMISSION.—

''(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the worksite and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

''(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

''(B) the total period of employment, including such 14-day period, may not exceed 10 months.

''(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

''(e) ABANDONMENT OF EMPLOYMENT.—

''(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H–2A worker prematurely abandons employment.

''(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

''(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

''(f) REPLACEMENT OF ALIEN.—

''(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker—

''(A) who abandons or prematurely terminates employment; or

''(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

''(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

''(g) IDENTIFICATION DOCUMENT.—

''(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify the alien's identity.

''(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

''(A) The document shall be capable of reliably determining whether—

''(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

''(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

''(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

''(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

''(C) The document shall—

''(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

''(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

''(h) EXTENSION OF STAY OF H–2A ALIENS IN THE UNITED STATES.—

''(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H–2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien's stay and a change in the alien's employment.

''(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

''(A) for a period of more than 10 months; or

''(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

''(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

''(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

''(B) DEFINITION.—For purposes of subparagraph (A), the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

''(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

''(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

''(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

''(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

''(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H–2A worker (including any extensions) is 3 years.

''(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

''(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H–2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H–2A worker unless the alien has remained outside the United States for a continuous period equal to at least ⅕ the duration of the alien's previous period of authorized status as an H–2A worker (including any extensions).

''(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H–2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H–2A worker.

''(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, DAIRY WORKERS, OR HORSE WORKERS.—Notwithstanding any provision of the Emergency Agriculture Relief Act of 2008, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder, goat herder, dairy worker, or horse worker—

''(1) may be admitted for an initial period of 12 months;

''(2) subject to subsection (j)(5), may have such initial period of admission extended for a period of up to 3 years; and

''(3) shall not be subject to the requirements of subsection (h)(5) (relating to periods of absence from the United States).

''(j) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, DAIRY WORKERS, OR HORSE WORKERS.—

''(1) ELIGIBLE ALIEN.—For purposes of this subsection, the term 'eligible alien' means an alien—

''(A) having nonimmigrant status under section 101(a)(15)(H)(ii)(a) based on employment as a sheepherder, goat herder, dairy worker, or horse worker;

''(B) who has maintained such nonimmigrant status in the United States for a cumulative total of 36 months (excluding any period of absence from the United States); and

''(C) who is seeking to receive an immigrant visa under section 203(b)(3)(A)(iii).

''(2) CLASSIFICATION PETITION.—In the case of an eligible alien, the petition under section 204 for classification under section 203(b)(3)(A)(iii) may be filed by—

''(A) the alien's employer on behalf of the eligible alien; or

''(B) the eligible alien.

''(3) NO LABOR CERTIFICATION REQUIRED.—Notwithstanding section 203(b)(3)(C), no determination under section 212(a)(5)(A) is required with respect to an immigrant visa described in paragraph (1)(C) for an eligible alien.

''(4) EFFECT OF PETITION.—The filing of a petition described in paragraph (2) or an application for adjustment of status based on the approval of such a petition shall not constitute evidence of an alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(a).

''(5) EXTENSION OF STAY.—The Secretary shall extend the stay of an eligible alien having a pending or approved classification petition described in paragraph (2) in 1-year increments until a final determination is made on the alien's eligibility for adjustment of status to that of an alien lawfully admitted for permanent residence.

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an eligible alien from seeking adjustment of status in accordance with any other provision of law.

"SEC. 218C. WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT.

''(a) ENFORCEMENT AUTHORITY.—

''(1) INVESTIGATION OF COMPLAINTS.—

''(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

''(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (G). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

''(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D),

(1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

''(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

''(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

''(iii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 2 years.

''(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's application under section 218(a) or during the period of 30 days preceding such period of employment—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 3 years.

''(F) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of $90,000.

''(G) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218A(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218A(b) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

''(2) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218A.

''(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.—H–2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

''(1) The providing of housing or a housing allowance as required under section 218A(b)(1).

''(2) The reimbursement of transportation as required under section 218A(b)(2).

''(3) The payment of wages required under section 218A(b)(3) when due.

''(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218A(c), compliance with which shall be governed by the provisions of such laws.

''(5) The guarantee of employment required under section 218A(b)(4).

''(6) The motor vehicle safety requirements under section 218A(b)(5).

''(7) The prohibition of discrimination under subsection (d)(2).

''(c) PRIVATE RIGHT OF ACTION.—

''(1) MEDIATION.—Upon the filing of a complaint by an H–2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

''(A) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H–2A workers and agricultural employers without charge to the parties.

''(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other nonbinding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

''(C) AUTHORIZATION.—

''(i) IN GENERAL.—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service $500,000 for each fiscal year to carry out this section.

''(ii) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt.

''(2) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H–2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

''(3) ELECTION.—An H–2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

''(4) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this Act shall be construed to diminish the rights and remedies of an H–2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

''(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

''(6) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

''(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

''(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

''(7) WORKERS' COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

''(A) Notwithstanding any other provision of this section, where a State's workers' compensation law is applicable and coverage is provided for an H–2A worker, the workers' compensation benefits shall be the exclusive remedy for the loss of such worker under this section in the case of bodily injury or death in accordance with such State's workers' compensation law.

''(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

''(i) a recovery under a State workers' compensation law; or

''(ii) rights conferred under a State workers' compensation law.

''(8) TOLLING OF STATUTE OF LIMITATIONS.—If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of an H–2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H–2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

''(9) PRECLUSIVE EFFECT.—Any settlement by an H–2A worker and an H–2A employer or any person reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any

Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H–2A employer on behalf of an H–2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(d) DISCRIMINATION PROHIBITED.—

''(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218A or any rule or regulation pertaining to section 218 or 218A, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of section 218 or 218A or any rule or regulation pertaining to either of such sections.

''(2) DISCRIMINATION AGAINST H–2A WORKERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H–2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

''(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H–2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

''(f) ROLE OF ASSOCIATIONS.—

''(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of sections 218 and 218A, as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

''(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that an association member or members participated in or had knowledge, or reason to know of the violation, in which case the penalty shall be invoked against the association member or members as well.

''SEC. 218D. DEFINITIONS.

''For purposes of this section and section 218, 218A, 218B, and 218C:

''(1) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a).

''(2) BONA FIDE UNION.—The term 'bona fide union' means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

''(3) DISPLACE.—The term 'displace', in the case of an application with respect to 1 or more H–2A workers by an employer, means laying off a United States worker from a job for which the H–2A worker or workers is or are sought.

''(4) ELIGIBLE.—The term 'eligible', when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A).

''(5) EMPLOYER.—The term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

''(6) H–2A EMPLOYER.—The term 'H–2A employer' means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

''(7) H–2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

''(8) JOB OPPORTUNITY.—The term 'job opportunity' means a job opening for temporary or seasonal full-time employment at a place in the United States to which United States workers can be referred.

''(9) LAYING OFF.—

''(A) IN GENERAL.—The term 'laying off', with respect to a worker—

''(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218A(b)(4)(D)), or temporary suspension of employment due to weather, markets, or other temporary conditions; but

''(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

''(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

''(10) REGULATORY DROUGHT.—The term 'regulatory drought' means a decision subsequent to the filing of the application under section 218 by an entity not under the control of the employer making such filing which restricts the employer's access to water for irrigation purposes and reduces or limits the employer's ability to produce an agricultural commodity, thereby reducing the need for labor.

''(11) SEASONAL.—Labor is performed on a 'seasonal' basis if—

''(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

''(B) from its nature, it may not be continuous or carried on throughout the year.

''(12) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(13) TEMPORARY.—A worker is employed on a 'temporary' basis where the employment is intended not to exceed 10 months.

''(14) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a national of the United States, an alien lawfully admitted for permanent residence, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).''.

(b) TABLE OF CONTENTS.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 218 and inserting the following:

''Sec. 218. H–2A employer applications.
''Sec. 218A. H–2A worker employment requirements.
''Sec. 218B. Procedure for admission and extension of stay of H–2A workers.
''Sec. 218C. Worker protections and labor standards enforcement.
''Sec. 218D. Definitions.''.

(c) SUNSET.—The amendments made by this section shall be effective during the 5-year period beginning on the date that is 1 year after the date of the enactment of this Act. Any immigration benefit provided pursuant to such amendments shall expire at the end of such 5-year period.

Subtitle C—Miscellaneous Provisions

SEC. 8031. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens pursuant to the amendment made by section 8021(a) and a collection process for such fees from employers. Such fees shall be the only fees chargeable to employers for services provided under such amendment.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on the number of job opportunities indicated in the employer's application under section 218 of the Immigration and Nationality Act, as amended by section 8021, and sufficient to provide for the direct costs of providing services related to an employer's authorization to employ aliens pursuant to the amendment made by section 8021(a), to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment of the fees pursuant to the amendment made by section 8021(a) shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the costs of carrying out sections 218 and 218B of the Immigration and Nationality Act, as amended and added, respectively, by section 8021, and the provisions of this title.

SEC. 8032. RULEMAKING.

(a) REQUIREMENT FOR THE SECRETARY TO CONSULT.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture during the promulgation of all regulations to implement the duties of the Secretary under this title and the amendments made by this title.

(b) REQUIREMENT FOR THE SECRETARY OF STATE TO CONSULT.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this title and the amendments made by this title.

(c) REQUIREMENT FOR THE SECRETARY OF LABOR TO CONSULT.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this title and the amendments made by this title.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under sections 218, 218A, 218B, 218C, and 218D of the Immigration and Nationality Act, as amended or added by section 8021, shall take effect on the effective date of section 8021 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. 8033. REPORTS TO CONGRESS.

(a) ANNUAL REPORT.—Not later than September 30 of each year, the Secretary shall submit a report to Congress that identifies, for the previous year—

(1) the number of job opportunities approved for employment of aliens admitted under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), and the number of workers actually admitted, disaggregated by State and by occupation;

(2) the number of such aliens reported to have abandoned employment pursuant to subsection 218B(e)(2) of such Act;

(3) the number of such aliens who departed the United States within the period specified in subsection 218B(d) of such Act;

(4) the number of aliens who applied for adjustment of status pursuant to section 8011(a); and

(5) the number of such aliens whose status was adjusted under section 8011(a).

(b) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress a report that describes the measures being taken and the progress made in implementing this title.

TITLE IX

TELEWORK ENHANCEMENT ACT OF 2008

SECTION 9001. SHORT TITLE.

This Act may be cited as the ''Telework Enhancement Act of 2008''.

SEC. 9002. DEFINITIONS.

In this Act:

(1) EMPLOYEE.—The term ''employee'' has the meaning given that term by section 2105 of title 5, United States Code.

(2) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term by section 105 of title 5, United States Code.

(3) NONCOMPLIANT.—The term ''noncompliant'' means not conforming to the requirements under this Act.

(4) TELEWORK.—The term ''telework'' means a work arrangement in which an employee regularly performs officially assigned duties at home or other worksites geographically convenient to the residence of the employee during at least 20 percent of each pay period that the employee is performing officially assigned duties.

SEC. 9003. EXECUTIVE AGENCIES TELEWORK REQUIREMENT.

(a) TELEWORK ELIGIBILITY.—Not later than 180 days after the date of enactment of this Act, the head of each executive agency shall—

(1) establish a policy under which eligible employees of the agency may be authorized to telework;

(2) determine the eligibility for all employees of the agency to participate in telework; and

(3) notify all employees of the agency of their eligibility to telework.

(b) PARTICIPATION.—The policy described under subsection (a) shall—

(1) ensure that telework does not diminish employee performance or agency operations;

(2) require a written agreement between an agency manager and an employee authorized to telework in order for that employee to participate in telework;

(3) provide that an employee may not be authorized to telework if the performance of that employee does not comply with the terms of the written agreement between the agency manager and that employee;

(4) except in emergency situations as determined by an agency head, not apply to any employee of the agency whose official duties require daily physical presence for activity with equipment or handling of secure materials; and

(5) determine the use of telework as part of the continuity of operations plans the agency in the event of an emergency.

SEC. 9004. TRAINING AND MONITORING.

The head of each executive agency shall ensure that—

(1) an interactive telework training program is provided to—

(A) employees eligible to participate in the telework program of the agency; and

(B) all managers of teleworkers;

(2) no distinction is made between teleworkers and nonteleworkers for the purposes of performance appraisals; and

(3) when determining what constitutes diminished employee performance, the agency shall consult the established performance management guidelines of the Office of Personnel Management.

SEC. 9005. POLICY AND SUPPORT.

(a) AGENCY CONSULTATION WITH THE OFFICE OF PERSONNEL MANAGEMENT.—Each executive agency shall consult with the Office of Personnel Management in developing telework policies.

(b) GUIDANCE AND CONSULTATION.—The Office of Personnel Management shall—

(1) provide policy and policy guidance for telework in the areas of pay and leave, agency closure, performance management, official worksite, recruitment and retention, and accommodations for employees with disabilities; and

(2) consult with—

(A) the Federal Emergency Management Agency on policy and policy guidance for telework in the areas of continuation of operations and long-term emergencies; and

(B) the General Services Administration on policy and policy guidance for telework in the areas of telework centers, travel, technology, and equipment.

(c) CONTINUITY OF OPERATIONS PLANS.—During any period that an agency is operating under a continuity of operations plan, that plan shall supersede any telework policy.

(d) TELEWORK WEBSITE.—The Office of Personnel Management shall—

(1) maintain a central telework website; and

(2) include on that website related—

(A) telework links;

(B) announcements;

(C) guidance developed by the Office of Personnel Management; and

(D) guidance submitted by the Federal Emergency Management Agency, and the General Services Administration to the Office of Personnel Management not later than 10 business days after the date of submission.

SEC. 9006. TELEWORK MANAGING OFFICER.

(a) IN GENERAL.—

(1) APPOINTMENT.—The head of each executive agency shall appoint an employee of the agency as the Telework Managing Officer. The Telework Managing Officer shall be established within the Office of the Chief Human Capital Officer or a comparable office with similar functions.

(2) TELEWORK COORDINATORS.—

(A) APPROPRIATIONS ACT, 2004.—Section 627 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 99) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''appoint a Telework Managing Officer to be''.

(B) APPROPRIATIONS ACT, 2005.—Section 622 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2919) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''appoint a Telework Managing Officer to be''.

(b) DUTIES.—The Telework Managing Officer shall—

(1) be devoted to policy development and implementation related to agency telework programs;

(2) serve as—

(A) an advisor for agency leadership, including the Chief Human Capital Officer;

(B) a resource for managers and employees; and

(C) a primary agency point of contact for the Office of Personnel Management on telework matters; and

(3) perform other duties as the applicable appointing authority may assign.

SEC. 9007. ANNUAL REPORT TO CONGRESS.

(a) SUBMISSION OF REPORTS.—Not later than 18 months after the date of enactment of this Act and on an annual basis thereafter, the Director of the Office of Personnel Management shall—

(1) submit a report addressing the telework programs of each executive agency to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Oversight and Government Reform of the House of Representatives; and

(2) transmit a copy of the report to the Comptroller General and the Office of Management and Budget.

(b) CONTENTS.—Each report submitted under this section shall include—

(1) the telework policy, the measures in place to carry out the policy, and an analysis of employee telework participation during the preceding 12-month period provided by each executive agency;

(2) an assessment of the progress of each agency in maximizing telework opportunities for employees of that agency without diminishing employee performance or agency operations;

(3) the definition of telework and telework policies and any modifications to such definitions;

(4) the degree of participation by employees of each agency in teleworking during the period covered by the evaluation, including—

(A) the number and percent of the employees in the agency who are eligible to telework;

(B) the number and percent of employees who engage in telework;

(C) the number and percent of eligible employees in each agency who have declined the opportunity to telework; and

(D) the number of employees who were not authorized, willing, or able to telework and the reason;

(5) the extent to which barriers to maximize telework opportunities have been identified and eliminated; and

(6) best practices in agency telework programs.

SEC. 9008. COMPLIANCE OF EXECUTIVE AGENCIES.

(a) EXECUTIVE AGENCIES.—An executive agency shall be in compliance with this Act if each employee of that agency participating in telework regularly performs officially assigned duties at home or other worksites geographically convenient to the residence of the employee during at least 20 percent of each pay period that the employee is performing officially assigned duties.

(b) AGENCY MANAGER REPORTS.—Not later than 180 days after the establishment of a policy described under section 9003, and annually thereafter, each agency manager shall submit a report to the Chief Human Capital Officer and Telework Managing Officer of that agency that contains a summary of—

(1) efforts to promote telework opportunities for employees supervised by that manager; and

(2) any obstacles which hinder the ability of that manager to promote telework opportunities.

(c) CHIEF HUMAN CAPITAL OFFICER REPORTS.—

(1) IN GENERAL.—Each year the Chief Human Capital Officer of each agency, in consultation with the Telework Managing Officer of that agency, shall submit a report to the Chair and Vice Chair of the Chief Human Capital Offices Council on agency management efforts to promote telework.

(2) REVIEW AND INCLUSION OF RELEVANT INFORMATION.—The Chair and Vice Chair of the Chief Human Capital Offices Council shall—

(A) review the reports submitted under paragraph (1);

(B) include relevant information from the submitted reports in the annual report to Congress required under section 9007(b)(2); and

(C) use that relevant information for other purposes related to the strategic management of human capital.

(d) COMPLIANCE REPORTS.—Not later than 90 days after the date of submission of each report under section 9007, the Office of Management and Budget shall submit a report to Congress that—

(1) identifies and recommends corrective actions and time frames for each executive agency that the Office of Management and Budget determines is noncompliant; and

(2) describes progress of noncompliant executive agencies, justifications of any continuing noncompliance, and any recommendations for corrective actions planned by the Office of Management and Budget or the executive agency to eliminate noncompliance.

SEC. 9009. EXTENSION OF TRAVEL EXPENSES TEST PROGRAMS.

(a) IN GENERAL.—Section 5710 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking ''for a period not to exceed 24 months''; and

(2) in subsection (e), by striking ''7 years'' and inserting ''16 years''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as though enacted as part of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 112 Stat. 2350).

TITLE X

GENERAL PROVISIONS—THIS ACT

AVAILABILITY OF FUNDS

SEC. 10001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

EMERGENCY DESIGNATION

SEC. 10002. Each amount in each title of this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

AVOIDANCE OF U.S. PAYROLL TAX CONTRIBUTIONS

SEC. 10003. None of the funds in this Act may be used by any Federal agency for a contract with any United States corporation which hires United States employees through foreign offshore subsidiaries for purposes of avoiding United States payroll tax contributions for such employees.

EXTENSION OF EB–5 REGIONAL CENTER PILOT PROGRAM

SEC. 10004. Section 610(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note) is amended by striking ''for 15 years'' and inserting ''for 20 years''.

INTERIM RELIEF FOR SKILLED IMMIGRANT WORKERS

SEC. 10005. (a) RECAPTURE OF UNUSED EMPLOYMENT-BASED VISA NUMBERS.—Subsection (d) of section 106 of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note) is amended—

(1) in paragraph (1)—

(A) by inserting ''1994, 1996, 1997, 1998,'' after ''available in fiscal year'';

(B) by striking ''or 2004'' and inserting ''2004, or 2006''; and

(C) by striking ''shall be available'' and all that follows through the end and inserting ''shall be available only to—

''(A) an employment-based immigrant under paragraph (1), (2), (3)(A)(i), or (3)(A)(ii) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)), except for employment-based immigrants whose petitions are or have been approved based on Schedule A, Group I as defined in section 656.5 of title 20, Code of Federal Regulations; or

''(B) a spouse or child accompanying or following to join such an employment-based immigrant under section 203(d) of such Act (8 U.S.C. 1153(d)).'';

(2) in paragraph (2)—

(A) in subparagraph (A), by striking ''years 1999 through 2004'' and inserting ''year 1994 and each subsequent fiscal year''; and

(B) in subparagraph (B)—

(i) in clause (i), by striking ''(i)''; and

(ii) by striking clause (ii); and

(3) by adding at the end the following new paragraph:

''(4) EMPLOYMENT-BASED VISA RECAPTURE FEE.—A fee shall be paid in connection with any petition seeking an employment-based immigrant visa number recaptured under paragraph (1), known as the Employment-Based Visa Recapture Fee, in the amount of $1500. Such Fee may not be charged for a dependent accompanying or following to join such employment-based immigrant.''.

(b) DISPOSITION OF FEES.—

(1) IMMIGRATION EXAMINATION FEE ACCOUNT.—The fees described in paragraph (2) shall be treated as adjudication fees and deposited as offsetting receipts into the Immigration Examinations Fee Account in the Treasury of the United States under section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)).

(2) FEES DESCRIBED.—The fees described in this paragraph are the following:

(A) Any Employment-Based Visa Recapture Fee collected pursuant to paragraph (4) of section 106(d) of the American Competitiveness in the Twenty-first Century Act of 2000, as added by subsection (a)(3).

(B) Any Supplemental Adjustment of Status Application Fee collected pursuant to paragraph (3) of subsection (n) of section 245 of the Immigration and Nationality Act, as added by subsection (c)(1).

(c) RETAINING GREEN CARD APPLICANTS WORKING IN THE UNITED STATES.—

(1) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following:

''(n) ADJUSTMENT OF STATUS FOR EMPLOYMENT-BASED IMMIGRANTS.—

''(1) ELIGIBILITY.—The Secretary of Homeland Security shall provide for the filing of an adjustment application by an alien (and any eligible dependents of such alien) who has an approved or pending petition under subparagraph (E) or (F) of section 204(a)(1), regardless of whether an immigrant visa is immediately available at the time the application is filed.

''(2) VISA AVAILABILITY.—An application filed pursuant to paragraph (1) shall not be approved until an immigrant visa becomes available.

''(3) FEES.—If an application is filed pursuant to paragraph (1) at a time at which a visa is not immediately available, a fee, known as the Supplemental Adjustment of Status Application Fee, in the amount of $1500 shall be paid on behalf of the beneficiary of such petition. Such Fee may not be charged for a dependent accompanying or following to join such beneficiary.''.

(2) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the implementation of subsection (n) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), as added by paragraph (1).

(3) REPEAL.—Unless a law is enacted that repeals this paragraph, the amendments made by paragraph (1) shall be repealed on the date that is 5 years after the date of the enactment of this Act.

SEC. 10006. NURSING SHORTAGE RELIEF. (a) INCREASING VISA NUMBERS.—Section 106 of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note) is amended by adding at the end the following:

''(e) VISA SHORTAGE RELIEF FOR NURSES AND PHYSICAL THERAPISTS.—

''(1) IN GENERAL.—Subject to paragraph (2), for petitions filed during the period beginning on the date of the enactment of the Emergency Nursing Supply Relief Act and ending on September 30, 2011, for employment-based immigrants (and their family members accompanying or following to join under section 203(d) of the Immigration and Nationality Act (8 U.S.C. 1153(d)), which are or have been approved based on Schedule A, Group I as defined in section 656.5 of title 20, Code of Federal Regulations, as promulgated by the Secretary of Labor, the numerical limitations set forth in sections 201(d) and

202(a) of such Act (8 U.S.C. 1151(d) and 1152(a)) shall not apply.

''(2) LIMITATION ON NUMBER OF VISAS.—The Secretary of State may not issue more than 20,000 immigrant visa numbers in any one fiscal year (plus any available visa numbers under this paragraph not used during the preceding fiscal year) to principal beneficiaries of petitions pursuant to paragraph (1).

''(3) EXPEDITED REVIEW.—The Secretary of Homeland Security shall provide a process for reviewing and acting upon petitions with respect to immigrants described in paragraph (1) not later than 30 days after the date on which a completed petition has been filed.

''(f) FEE FOR USE OF VISAS UNDER SUBSECTION (a).—

''(1) IN GENERAL.—The Secretary of Homeland Security shall impose a fee upon each petitioning employer who uses a visa provided under subsection (e) to provide employment for an alien as a professional nurse, except that—

''(A) such fee shall be in the amount of $1,500 for each such alien nurse (but not for dependents accompanying or following to join who are not professional nurses); and

''(B) no fee shall be imposed for the use of such visas if the employer demonstrates to the Secretary that—

''(i) the employer is a health care facility that is located in a county or parish that received individual and public assistance pursuant to Major Disaster Declaration number 1603 or 1607; or

''(ii) the employer is a health care facility that has been designated as a Health Professional Shortage Area facility by the Secretary of Health and Human Services as defined in section 332 of the Public Health Service Act (42 U.S.C. 254e).

''(2) FEE COLLECTION.—A fee imposed by the Secretary of Homeland Security pursuant to paragraph (1) shall be collected by the Secretary as a condition of approval of an application for adjustment of status by the beneficiary of a petition or by the Secretary of State as a condition of issuance of a visa to such beneficiary.''.

(b) CAPITATION GRANTS TO INCREASE THE NUMBER OF NURSING FACULTY AND STUDENTS; DOMESTIC NURSING ENHANCEMENT ACCOUNT.—Part D of title VIII of the Public Health Service Act (42 U.S.C. 296p et seq.) is amended by adding at the end the following:

''SEC. 832. CAPITATION GRANTS.

''(a) IN GENERAL.—For the purpose described in subsection (b), the Secretary, acting through the Health Resources and Services Administration, shall award a grant each fiscal year in an amount determined in accordance with subsection (c) to each eligible school of nursing that submits an application in accordance with this section.

''(b) PURPOSE.—A funding agreement for a grant under this section is that the eligible school of nursing involved will expend the grant to increase the number of nursing faculty and students at the school, including by hiring new faculty, retaining current faculty, purchasing educational equipment and audiovisual laboratories, enhancing clinical laboratories, repairing and expanding infrastructure, or recruiting students.

''(c) GRANT COMPUTATION.—

''(1) AMOUNT PER STUDENT.—Subject to paragraph (2), the amount of a grant to an eligible school of nursing under this section for a fiscal year shall be the total of the following:

''(A) $1,800 for each full-time or part-time student who is enrolled at the school in a graduate program in nursing that—

''(i) leads to a master's degree, a doctoral degree, or an equivalent degree; and

''(ii) prepares individuals to serve as faculty through additional course work in education and ensuring competency in an advanced practice area.

''(B) $1,405 for each full-time or part-time student who—

''(i) is enrolled at the school in a program in nursing leading to a bachelor of science degree, a bachelor of nursing degree, a graduate degree in nursing if such program does not meet the requirements of subparagraph (A), or an equivalent degree; and

''(ii) has not more than 3 years of academic credits remaining in the program.

''(C) $966 for each full-time or part-time student who is enrolled at the school in a program in nursing leading to an associate degree in nursing or an equivalent degree.

''(2) LIMITATION.—In calculating the amount of a grant to a school under paragraph (1), the Secretary may not make a payment with respect to a particular student—

''(A) for more than 2 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a master's degree or an equivalent degree;

''(B) for more than 4 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a doctoral degree or an equivalent degree;

''(C) for more than 3 fiscal years in the case of a student described in paragraph (1)(B); or

''(D) for more than 2 fiscal years in the case of a student described in paragraph (1)(C).

''(d) ELIGIBILITY.—In this section, the term 'eligible school of nursing' means a school of nursing that—

''(1) is accredited by a nursing accrediting agency recognized by the Secretary of Education;

''(2) has a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent for each of the 3 academic years preceding submission of the grant application; and

''(3) has a graduation rate (based on the number of students in a class who graduate relative to, for a baccalaureate program, the number of students who were enrolled in the class at the beginning of junior year or, for an associate degree program, the number of students who were enrolled in the class at the end of the first year) of not less than 80 percent for each of the 3 academic years preceding submission of the grant application.

''(e) REQUIREMENTS.—The Secretary may award a grant under this section to an eligible school of nursing only if the school gives assurances satisfactory to the Secretary that, for each academic year for which the grant is awarded, the school will comply with the following:

''(1) The school will maintain a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent.

''(2) The school will maintain a graduation rate (as described in subsection (d)(3)) of not less than 80 percent.

''(3)(A) Subject to subparagraphs (B) and (C), the first-year enrollment of full-time nursing students in the school will exceed such enrollment for the preceding academic year by 5 percent or 5 students, whichever is greater.

''(B) Subparagraph (A) shall not apply to the first academic year for which a school receives a grant under this section.

''(C) With respect to any academic year, the Secretary may waive application of subparagraph (A) if—

''(i) the physical facilities at the school involved limit the school from enrolling additional students; or

''(ii) the school has increased enrollment in the school (as described in subparagraph (A)) for each of the 2 preceding academic years.

''(4) Not later than 1 year after receiving a grant under this section, the school will formulate and implement a plan to accomplish at least 2 of the following:

''(A) Establishing or significantly expanding an accelerated baccalaureate degree nursing program designed to graduate new nurses in 12 to 18 months.

''(B) Establishing cooperative intradisciplinary education among schools of nursing with a view toward shared use of technological resources, including information technology.

''(C) Establishing cooperative interdisciplinary training between schools of nursing and schools of allied health, medicine, dentistry, osteopathy, optometry, podiatry, pharmacy, public health, or veterinary medicine, including training for the use of the interdisciplinary team approach to the delivery of health services.

''(D) Integrating core competencies on evidence-based practice, quality improvements, and patient-centered care.

''(E) Increasing admissions, enrollment, and retention of qualified individuals who are financially disadvantaged.

''(F) Increasing enrollment of minority and diverse student populations.

''(G) Increasing enrollment of new graduate baccalaureate nursing students in graduate programs that educate nurse faculty members.

''(H) Developing post-baccalaureate residency programs to prepare nurses for practice in specialty areas where nursing shortages are most severe.

''(I) Increasing integration of geriatric content into the core curriculum.

''(J) Partnering with economically disadvantaged communities to provide nursing education.

''(K) Expanding the ability of nurse managed health centers to provide clinical education training sites to nursing students.

''(5) The school will submit an annual report to the Secretary that includes updated information on the school with respect to student enrollment, student retention, graduation rates, passage rates on the National Council Licensure Examination for Registered Nurses, the number of graduates employed as nursing faculty or nursing care providers within 12 months of graduation, and the number of students who are accepted into graduate programs for further nursing education.

''(6) The school will allow the Secretary to make on-site inspections, and will comply with the Secretary's requests for information, to determine the extent to which the school is complying with the requirements of this section.

''(f) REPORTS TO CONGRESS.—The Secretary shall evaluate the results of grants under this section and submit to Congress—

''(1) not later than 18 months after the date of the enactment of this section, an interim report on such results; and

''(2) not later than September 30, 2010, a final report on such results.

''(g) APPLICATION.—An eligible school of nursing seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

''(h) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts in the Domestic Nursing Enhancement Account, established under section 833, there are authorized to be

appropriated such sums as may be necessary to carry out this section.

"SEC. 833. DOMESTIC NURSING ENHANCEMENT ACCOUNT.

''(a) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account which shall be known as the 'Domestic Nursing Enhancement Account.' Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under section 106(f) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note). Nothing in this subsection shall prohibit the depositing of other moneys into the account established under this section.

''(b) USE OF FUNDS.—Amounts collected under section 106(f) of the American Competitiveness in the Twenty-first Century Act of 2000, and deposited into the account established under subsection (a) shall be used by the Secretary of Health and Human Services to carry out section 832. Such amounts shall be available for obligation only to the extent, and in the amount, provided in advance in appropriations Acts. Such amounts are authorized to remain available until expended.''.

(c) GLOBAL HEALTH CARE COOPERATION.—

(1) IN GENERAL.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended by inserting after section 317 the following:

"SEC. 317A. TEMPORARY ABSENCE OF ALIENS PROVIDING HEALTH CARE IN DEVELOPING COUNTRIES.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary of Homeland Security shall allow an eligible alien and the spouse or child of such alien to reside in a candidate country during the period that the eligible alien is working as a physician or other health care worker in a candidate country. During such period the eligible alien and such spouse or child shall be considered—

''(1) to be physically present and residing in the United States for purposes of naturalization under section 316(a); and

''(2) to meet the continuous residency requirements under section 316(b).

''(b) DEFINITIONS.—In this section:

''(1) CANDIDATE COUNTRY.—The term 'candidate country' means a country that the Secretary of State determines to be—

''(A) eligible for assistance from the International Development Association, in which the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for the applicable fiscal year, as defined by the International Bank for Reconstruction and Development;

''(B) classified as a lower middle income country in the then most recent edition of the World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development and having an income greater than the historical ceiling for International Development Association eligibility for the applicable fiscal year; or

''(C) qualified to be a candidate country due to special circumstances, including natural disasters or public health emergencies.

''(2) ELIGIBLE ALIEN.—The term 'eligible alien' means an alien who—

''(A) has been lawfully admitted to the United States for permanent residence; and

''(B) is a physician or other healthcare worker.

''(c) CONSULTATION.—The Secretary of Homeland Security shall consult with the Secretary of State in carrying out this section.

''(d) PUBLICATION.—The Secretary of State shall publish—

''(1) not later than 180 days after the date of the enactment of this section, a list of candidate countries;

''(2) an updated version of the list required by paragraph (1) not less often than once each year; and

''(3) an amendment to the list required by paragraph (1) at the time any country qualifies as a candidate country due to special circumstances under subsection (b)(1)(C).''.

(2) RULEMAKING.—

(A) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall promulgate regulations to carry out the amendments made by this subsection.

(B) CONTENT.—The regulations promulgated pursuant to paragraph (1) shall—

(i) permit an eligible alien (as defined in section 317A of the Immigration and Nationality Act, as added by paragraph (1)) and the spouse or child of the eligible alien to reside in a foreign country to work as a physician or other healthcare worker as described in subsection (a) of such section 317A for not less than a 12-month period and not more than a 24-month period, and shall permit the Secretary to extend such period for an additional period not to exceed 12 months, if the Secretary determines that such country has a continuing need for such a physician or other healthcare worker;

(ii) provide for the issuance of documents by the Secretary to such eligible alien, and such spouse or child, if appropriate, to demonstrate that such eligible alien, and such spouse or child, if appropriate, is authorized to reside in such country under such section 317A; and

(iii) provide for an expedited process through which the Secretary shall review applications for such an eligible alien to reside in a foreign country pursuant to subsection (a) of such section 317A if the Secretary of State determines a country is a candidate country pursuant to subsection (b)(1)(C) of such section 317A.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) DEFINITION.—Section 101(a)(13)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)(C)(ii)) is amended by adding at the end the following: ''except in the case of an eligible alien, or the spouse or child of such alien, who is authorized to be absent from the United States under section 317A,''.

(B) DOCUMENTARY REQUIREMENTS.—Section 211(b) of such Act (8 U.S.C. 1181(b)) is amended by inserting '', including an eligible alien authorized to reside in a foreign country under section 317A and the spouse or child of such eligible alien, if appropriate,'' after ''1101(a)(27)(A),''.

(C) INELIGIBLE ALIENS.—Section 212(a)(7)(A)(i)(I) of such Act (8 U.S.C. 1182(a)(7)(A)(i)(I)) is amended by inserting ''other than an eligible alien authorized to reside in a foreign country under section 317A and the spouse or child of such eligible alien, if appropriate,'' after ''Act,''.

(D) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 317 the following:

''Sec. 317A. Temporary absence of aliens providing health care in developing countries.''.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to U.S. Citizenship and Immigration Services such sums as may be necessary to carry out this subsection and the amendments made by this subsection.

(d) ATTESTATION BY HEALTH CARE WORKERS.—

(1) ATTESTATION REQUIREMENT.—Section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)) is amended by adding at the end the following:

''(E) HEALTH CARE WORKERS WITH OTHER OBLIGATIONS.—

''(i) IN GENERAL.—An alien who seeks to enter the United States for the purpose of performing labor as a physician or other health care worker is inadmissible unless the alien submits to the Secretary of Homeland Security or the Secretary of State, as appropriate, an attestation that the alien is not seeking to enter the United States for such purpose during any period in which the alien has an outstanding obligation to the government of the alien's country of origin or the alien's country of residence.

''(ii) OBLIGATION DEFINED.—In this subparagraph, the term 'obligation' means an obligation incurred as part of a valid, voluntary individual agreement in which the alien received financial assistance to defray the costs of education or training to qualify as a physician or other health care worker in consideration for a commitment to work as a physician or other health care worker in the alien's country of origin or the alien's country of residence.

''(iii) WAIVER.—The Secretary of Homeland Security may waive a finding of inadmissibility under clause (i) if the Secretary determines that—

''(I) the obligation was incurred by coercion or other improper means;

''(II) the alien and the government of the country to which the alien has an outstanding obligation have reached a valid, voluntary agreement, pursuant to which the alien's obligation has been deemed satisfied, or the alien has shown to the satisfaction of the Secretary that the alien has been unable to reach such an agreement because of coercion or other improper means; or

''(III) the obligation should not be enforced due to other extraordinary circumstances, including undue hardship that would be suffered by the alien in the absence of a waiver.''.

(2) EFFECTIVE DATE; APPLICATION.—

(A) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(B) APPLICATION BY THE SECRETARY.—Not later than the effective date described in subparagraph (A), the Secretary of Homeland Security shall begin to carry out subparagraph (E) of section 212(a)(5) of the Immigration and Nationality Act, as added by paragraph (1), including the requirement for the attestation and the granting of a waiver described in clause (iii) of such subparagraph (E), regardless of whether regulations to implement such subparagraph have been promulgated.

SEC. 10007. NURSE TRAINING AND RETENTION DEMONSTRATION GRANTS. (a) FINDINGS.—Congress makes the following findings:

(1) America's healthcare system depends on an adequate supply of trained nurses to deliver quality patient care.

(2) Over the next 15 years, this shortage is expected to grow significantly. The Health Resources and Services Administration has projected that by 2020, there will be a shortage of nurses in every State and that overall only 64 percent of the demand for nurses will be satisfied, with a shortage of 1,016,900 nurses nationally.

(3) To avert such a shortage, today's network of healthcare workers should have access to education and support from their employers to participate in educational and training opportunities.

(4) With the appropriate education and support, incumbent healthcare workers and incumbent bedside nurses are untapped sources which can meet these needs and address the

nursing shortage and provide quality care as the American population ages.

(b) PURPOSES OF GRANT PROGRAM.—It is the purpose of this section to authorize grants to—

(1) address the projected shortage of nurses by funding comprehensive programs to create a career ladder to nursing (including Certified Nurse Assistants, Licensed Practical Nurses, Licensed Vocational Nurses, and Registered Nurses) for incumbent ancillary healthcare workers;

(2) increase the capacity for educating nurses by increasing both nurse faculty and clinical opportunities through collaborative programs between staff nurse organizations, healthcare providers, and accredited schools of nursing; and

(3) provide training programs through education and training organizations jointly administered by healthcare providers and healthcare labor organizations or other organizations representing staff nurses and frontline healthcare workers, working in collaboration with accredited schools of nursing and academic institutions.

(c) GRANTS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Labor (referred to in this section as the ''Secretary'') shall establish a partnership grant program to award grants to eligible entities to carry out comprehensive programs to provide education to nurses and create a pipeline to nursing for incumbent ancillary healthcare workers who wish to advance their careers, and to otherwise carry out the purposes of this section.

(d) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section an entity shall—

(1) be—

(A) a healthcare entity that is jointly administered by a healthcare employer and a labor union representing the healthcare employees of the employer and that carries out activities using labor management training funds as provided for under section 302 of the Labor-Management Relations Act, 1947 (18 U.S.C. 186(c)(6));

(B) an entity that operates a training program that is jointly administered by—

(i) one or more healthcare providers or facilities, or a trade association of healthcare providers; and

(ii) one or more organizations which represent the interests of direct care healthcare workers or staff nurses and in which the direct care healthcare workers or staff nurses have direct input as to the leadership of the organization; or

(C) a State training partnership program that consists of non-profit organizations that include equal participation from industry, including public or private employers, and labor organizations including joint labor-management training programs, and which may include representatives from local governments, worker investment agency one-stop career centers, community based organizations, community colleges, and accredited schools of nursing; and

(2) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(e) ADDITIONAL REQUIREMENTS FOR HEALTHCARE EMPLOYER DESCRIBED IN SUBSECTION (d).—To be eligible for a grant under this section, a healthcare employer described in subsection (d) shall demonstrate—

(1) an established program within their facility to encourage the retention of existing nurses;

(2) it provides wages and benefits to its nurses that are competitive for its market or that have been collectively bargained with a labor organization; and

(3) support for programs funded under this section through 1 or more of the following:

(A) The provision of paid leave time and continued health coverage to incumbent healthcare workers to allow their participation in nursing career ladder programs, including Certified Nurse Assistants, Licensed Practical Nurses, Licensed Vocational Nurses, and Registered Nurses.

(B) Contributions to a joint labor-management or other jointly administered training fund which administers the program involved.

(C) The provision of paid release time, incentive compensation, or continued health coverage to staff nurses who desire to work full- or part-time in a faculty position.

(D) The provision of paid release time for staff nurses to enable them to obtain a bachelor of science in nursing degree, other advanced nursing degrees, specialty training, or certification program.

(E) The payment of tuition assistance to incumbent healthcare workers.

(f) OTHER REQUIREMENTS.—

(1) MATCHING REQUIREMENT.—

(A) IN GENERAL.—The Secretary may not make a grant under this section unless the applicant involved agrees, with respect to the costs to be incurred by the applicant in carrying out the program under the grant, to make available non-Federal contributions (in cash or in kind under subparagraph (B)) toward such costs in an amount equal to not less than $1 for each $1 of Federal funds provided in the grant. Such contributions may be made directly or through donations from public or private entities, or may be provided through the cash equivalent of paid release time provided to incumbent worker students.

(B) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required in subparagraph (A) may be in cash or in kind (including paid release time), fairly evaluated, including equipment or services (and excluding indirect or overhead costs).

(C) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall supplement, and not supplant, resources dedicated by an entity, or other Federal, State, or local funds available to carry out activities described in this section.

(2) REQUIRED COLLABORATION.—Entities carrying out or overseeing programs carried out with assistance provided under this section shall demonstrate collaboration with accredited schools of nursing which may include community colleges and other academic institutions providing associate, bachelor's, or advanced nursing degree programs or specialty training or certification programs.

(g) ACTIVITIES.—Amounts awarded to an entity under a grant under this section shall be used for the following:

(1) To carry out programs that provide education and training to establish nursing career ladders to educate incumbent healthcare workers to become nurses (including Certified Nurse Assistants, Licensed Practical Nurses, Licensed Vocational Nurses, and Registered Nurses). Such programs shall include one or more of the following:

(A) Preparing incumbent workers to return to the classroom through English as a second language education, GED education, precollege counseling, college preparation classes, and support with entry level college classes that are a prerequisite to nursing.

(B) Providing tuition assistance with preference for dedicated cohort classes in community colleges, universities, accredited schools of nursing with supportive services including tutoring and counseling.

(C) Providing assistance in preparing for and meeting all nursing licensure tests and requirements.

(D) Carrying out orientation and mentorship programs that assist newly graduated nurses in adjusting to working at the bedside to ensure their retention post graduation, and ongoing programs to support nurse retention.

(E) Providing stipends for release time and continued healthcare coverage to enable incumbent healthcare workers to participate in these programs.

(2) To carry out programs that assist nurses in obtaining advanced degrees and completing specialty training or certification programs and to establish incentives for nurses to assume nurse faculty positions on a part-time or full-time basis. Such programs shall include one or more of the following:

(A) Increasing the pool of nurses with advanced degrees who are interested in teaching by funding programs that enable incumbent nurses to return to school.

(B) Establishing incentives for advanced degree bedside nurses who wish to teach in nursing programs so they can obtain a leave from their bedside position to assume a full- or part-time position as adjunct or full time faculty without the loss of salary or benefits.

(C) Collaboration with accredited schools of nursing which may include community colleges and other academic institutions providing associate, bachelor's, or advanced nursing degree programs, or specialty training or certification programs, for nurses to carry out innovative nursing programs which meet the needs of bedside nursing and healthcare providers.

(h) PREFERENCE.—In awarding grants under this section the Secretary shall give preference to programs that—

(1) provide for improving nurse retention;

(2) provide for improving the diversity of the new nurse graduates to reflect changes in the demographics of the patient population;

(3) provide for improving the quality of nursing education to improve patient care and safety;

(4) have demonstrated success in upgrading incumbent healthcare workers to become nurses or which have established effective programs or pilots to increase nurse faculty; or

(5) are modeled after or affiliated with such programs described in paragraph (4).

(i) EVALUATION.—

(1) PROGRAM EVALUATIONS.—An entity that receives a grant under this section shall annually evaluate, and submit to the Secretary a report on, the activities carried out under the grant and the outcomes of such activities. Such outcomes may include—

(A) an increased number of incumbent workers entering an accredited school of nursing and in the pipeline for nursing programs;

(B) an increasing number of graduating nurses and improved nurse graduation and licensure rates;

(C) improved nurse retention;

(D) an increase in the number of staff nurses at the healthcare facility involved;

(E) an increase in the number of nurses with advanced degrees in nursing;

(F) an increase in the number of nurse faculty;

(G) improved measures of patient quality as determined by the Secretary; and

(H) an increase in the diversity of new nurse graduates relative to the patient population.

(2) GENERAL REPORT.—Not later than September 30, 2011, the Secretary of Labor shall, using data and information from the reports

received under paragraph (1), submit to Congress a report concerning the overall effectiveness of the grant program carried out under this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section for fiscal years 2010, 2011, and 2012, such sums as may be necessary. Funds appropriated under this subsection shall remain available until expended without fiscal year limitation.

EXPLANATORY STATEMENT

SEC. 10008. The explanatory statement printed in the Senate section of the Congressional Record on May 19, 2008, submitted by the Chairman of the Committee on Appropriations of the Senate regarding the amendments of the Senate to the House amendments to the Senate amendment to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes, submitted by the Chairman of the Committee on Appropriations of the Senate, shall have the same effect with respect to the allocation of funds and implementation of titles I through XIII of this Act as if it were a report to the Senate on a bill reported by the Committee on Appropriations.

SHORT TITLE

SEC. 10009. This Act may be cited as the ''Supplemental Appropriations Act, 2008''.

SA 4787. Mr. BYRD submitted an amendment intended to be proposed by him to the House amendment numbered 2 to the amendment of the Senate to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the language proposed to be inserted, insert the following:

TITLE XI

DEFENSE MATTERS

CHAPTER 1

DEFENSE SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2008

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for ''Military Personnel, Army'', $12,216,715,000.

MILITARY PERSONNEL, NAVY

For an additional amount for ''Military Personnel, Navy'', $894,185,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for ''Military Personnel, Marine Corps'', $1,826,688,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for ''Military Personnel, Air Force'', $1,355,544,000.

RESERVE PERSONNEL, ARMY

For an additional amount for ''Reserve Personnel, Army'', $304,200,000.

RESERVE PERSONNEL, NAVY

For an additional amount for ''Reserve Personnel, Navy'', $72,800,000.

RESERVE PERSONNEL, MARINE CORPS

For an additional amount for ''Reserve Personnel, Marine Corps'', $16,720,000.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for ''Reserve Personnel, Air Force'', $5,000,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for ''National Guard Personnel, Army'', $1,369,747,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for ''National Guard Personnel, Air Force'', $4,000,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for ''Operation and Maintenance, Army'', $17,223,512,000.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Operation and Maintenance, Navy'', $2,977,864,000: *Provided*, That up to $112,607,000 shall be transferred to the Coast Guard ''Operating Expenses'' account.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for ''Operation and Maintenance, Marine Corps'', $159,900,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Operation and Maintenance, Air Force'', $5,972,520,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for ''Operation and Maintenance, Defense-Wide'', $3,657,562,000, of which—

(1) not to exceed $25,000,000 may be used for the Combatant Commander Initiative Fund, to be used in support of Operation Iraqi Freedom and Operation Enduring Freedom;

(2) not to exceed $800,000,000, to remain available until expended, may be used for payments to reimburse key cooperating nations, for logistical, military, and other support provided to United States military operations, notwithstanding any other provision of law: *Provided*, That these funds may be used for the purpose of providing specialized training and procuring supplies and specialized equipment and providing such supplies and loaning such equipment on a non-reimbursable basis to coalition forces supporting United States military operations in Iraq and Afghanistan: *Provided further*, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph: *Provided further*, That of the amount available under this heading for the Defense Contract Management Agency, $52,000,000 shall remain available until September 30, 2009.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for ''Operation and Maintenance, Army Reserve'', $164,839,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for ''Operation and Maintenance, Navy Reserve'', $109,876,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for ''Operation and Maintenance, Marine Corps Reserve'', $70,256,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for ''Operation and Maintenance, Air Force Reserve'', $165,994,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Army National Guard'', $685,644,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Air National Guard'', $287,369,000.

IRAQ FREEDOM FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Iraq Freedom Fund'', $50,000,000, to remain available for transfer until September 30, 2009, notwithstanding any other provision of law, only for the redevelopment of the Iraqi industrial sector by identifying, and providing assistance to, factories and other industrial facilities that are best situated to resume operations quickly and reemploy the Iraqi workforce: *Provided*, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer.

AFGHANISTAN SECURITY FORCES FUND

For an additional amount for the ''Afghanistan Security Forces Fund'', $1,400,000,000, to remain available until September 30, 2009.

IRAQ SECURITY FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the ''Iraq Security Forces Fund'', $1,500,000,000, to remain available until September 30, 2009: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Multi-National Security Transition Command—Iraq, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Iraq, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further*, That none of the assistance provided under this heading in the form of funds may be utilized for the provision of salaries, wages, or bonuses to personnel of the Iraqi Security Forces: *Provided further*, That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That the Secretary of Defense may transfer such funds to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purposes provided herein: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further*, That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and amounts of the funds received and the specific use of such contributions: *Provided further*, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of

the details of any such transfer: *Provided further,* That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for ''Aircraft Procurement, Army'', $954,111,000, to remain available for obligation until September 30, 2010.

MISSILE PROCUREMENT, ARMY

For an additional amount for ''Missile Procurement, Army'', $561,656,000, to remain available for obligation until September 30, 2010.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for ''Procurement of Weapons and Tracked Combat Vehicles, Army'', $5,463,471,000, to remain available for obligation until September 30, 2010.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for ''Procurement of Ammunition, Army'', $344,900,000, to remain available for obligation until September 30, 2010.

OTHER PROCUREMENT, ARMY

For an additional amount for ''Other Procurement, Army'', $16,337,340,000, to remain available for obligation until September 30, 2010.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for ''Aircraft Procurement, Navy'', $3,563,254,000, to remain available for obligation until September 30, 2010.

WEAPONS PROCUREMENT, NAVY

For an additional amount for ''Weapons Procurement, Navy'', $317,456,000, to remain available for obligation until September 30, 2010.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

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

OTHER PROCUREMENT, NAVY

For an additional amount for ''Other Procurement, Navy'', $1,399,135,000, to remain available for obligation until September 30, 2010.

PROCUREMENT, MARINE CORPS

For an additional amount for ''Procurement, Marine Corps'', $2,197,390,000, to remain available for obligation until September 30, 2010.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for ''Aircraft Procurement, Air Force'', $7,103,923,000, to remain available for obligation until September 30, 2010.

MISSILE PROCUREMENT, AIR FORCE

For an additional amount for ''Missile Procurement, Air Force'', $66,943,000, to remain available for obligation until September 30, 2010.

PROCUREMENT OF AMMUNITION, AIR FORCE

For an additional amount for ''Procurement of Ammunition, Air Force'', $205,455,000, to remain available for obligation until September 30, 2010.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for ''Other Procurement, Air Force'', $1,953,167,000, to remain available for obligation until September 30, 2010.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for ''Procurement, Defense-Wide'', $408,209,000, to remain available for obligation until September 30, 2010.

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for ''National Guard and Reserve Equipment'', $825,000,000, to remain available for obligation until September 30, 2010: *Provided,* That the Chiefs of the National Guard and Reserve components shall, prior to the expenditure of funds, and not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees an equipment modernization priority assessment with a detailed plan for the expenditure of funds for their respective National Guard and Reserve components.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for ''Research, Development, Test and Evaluation, Army'', $162,958,000, to remain available until September 30, 2009.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for ''Research, Development, Test and Evaluation, Navy'', $366,110,000, to remain available until September 30, 2009.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for ''Research, Development, Test and Evaluation, Air Force'', $399,817,000, to remain available until September 30, 2009.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for ''Research, Development, Test and Evaluation, Defense-Wide'', $816,598,000, to remain available until September 30, 2009.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for ''Defense Working Capital Funds'', $1,837,450,000, to remain available for obligation until expended.

NATIONAL DEFENSE SEALIFT FUND

For an additional amount for ''National Defense Sealift Fund'', $5,110,000, to remain available for obligation until expended.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for ''Defense Health Program'', $1,413,864,000, of which $957,064,000 shall be for operation and maintenance; of which $91,900,000 is for procurement, to remain available until September 30, 2010; of which $364,900,000 shall be for research, development, test and evaluation, to remain available until September 30, 2009: *Provided,* That in addition to amounts otherwise contained in this paragraph, $75,000,000 is hereby appropriated to the ''Defense Health Program'' for operation and maintenance for psychological health and traumatic brain injury, to remain available until September 30, 2009.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Drug Interdiction and Counter-Drug Activities, Defense'', $65,317,000, to remain available until September 30, 2009.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for ''Office of the Inspector General'', $6,394,000, of which $2,000,000 shall be for research, development, test and evaluation, to remain available until September 30, 2009.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 11101. Appropriations provided in this chapter are available for obligation until September 30, 2008, unless otherwise provided in this chapter.

SEC. 11102. Notwithstanding any other provision of law, funds made available in this chapter are in addition to amounts appropriated or otherwise made available for the Department of Defense for fiscal year 2008.

(INCLUDING TRANSFER OF FUNDS)

SEC. 11103. Upon the determination of the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer between appropriations up to $2,500,000,000 of the funds made available to the Department of Defense in this chapter: *Provided,* That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: *Provided further,* That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of Public Law 110–116, except for the fourth proviso.

SEC. 11104. (a) From funds made available for operation and maintenance in this chapter to the Department of Defense, not to exceed $1,226,841,000 may be used, notwithstanding any other provision of law, to fund the Commander's Emergency Response Program, for the purpose of enabling military commanders in Iraq, Afghanistan, and the Philippines to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi, Afghan, and Filipino people.

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

(INCLUDING TRANSFER OF FUNDS)

SEC. 11105. During fiscal year 2008, the Secretary of Defense may transfer not to exceed $6,500,000 of the amounts in or credited to the Defense Cooperation Account, pursuant to 10 U.S.C. 2608, to such appropriations or funds of the Department of Defense as the Secretary shall determine for use consistent with the purposes for which such funds were contributed and accepted: *Provided,* That such amounts shall be available for the same time period as the appropriation to which transferred: *Provided further,* That the Secretary shall report to the Congress all transfers made pursuant to this authority.

SEC. 11106. Of the amount appropriated by this chapter under the heading ''Drug Interdiction and Counter-Drug Activities, Defense'', not to exceed $20,000,000 may be used for the provision of support for counter-drug activities of the Governments of Afghanistan, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, and Turkmenistan, as specified in section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85, as amended by Public Laws 106–398, 108–136, 109–364, and 110–181): *Provided,* That such support shall be in addition to support provided under any other provision of the law.

SEC. 11107. Amounts provided in this chapter for operations in Iraq and Afghanistan may be used by the Department of Defense for the purchase of up to 20 heavy and light armored vehicles for force protection purposes, notwithstanding price or other limitations specified elsewhere in the Department

of Defense Appropriations Act, 2008 (Public Law 110–116), or any other provision of law: *Provided*, That notwithstanding any other provision of law, funds provided in Public Law 110–116 and Public Law 110–161 under the heading ''Other Procurement, Navy'' may be used for the purchase of 21 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle: *Provided further*, That the Secretary of Defense shall submit a report in writing no later than 30 days after the end of each fiscal quarter notifying the congressional defense committees of any purchase described in this section, including cost, purposes, and quantities of vehicles purchased.

(INCLUDING TRANSFER OF FUNDS)

SEC. 11108. Section 8122(c) of Public Law 110–116 is amended by adding at the end the following:

''(4) Upon a determination that all or part of the funds transferred under paragraph (1) are not necessary to accomplish the purposes specified in subsection (b), such amounts may be transferred back to the 'Mine Resistant Ambush Protected Vehicle Fund'.''.

SEC. 11109. Notwithstanding any other provision of law, not to exceed $150,000,000 of funds made available in this chapter may be obligated to conduct or support a program to build the capacity of a foreign country's national military forces in order for that country to conduct counterterrorist operations or participate in or support military and stability operations in which the U.S. Armed Forces are a participant: *Provided*, That funds available pursuant to the authority in this section shall be subject to the same restrictions, limitations, and reporting requirements as funds available pursuant to section 1206 of Public Law 109–163 as amended.

CHAPTER 2

DEFENSE BRIDGE FUND APPROPRIATIONS FOR FISCAL YEAR 2009

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for ''Military Personnel, Army'', $839,000,000.

MILITARY PERSONNEL, NAVY

For an additional amount for ''Military Personnel, Navy'', $75,000,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for ''Military Personnel, Marine Corps'', $55,000,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for ''Military Personnel, Air Force'', $75,000,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for ''National Guard Personnel, Army'', $150,000,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for ''Operation and Maintenance, Army'', $37,300,000,000.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Operation and Maintenance, Navy'', $3,500,000,000: *Provided*, That up to $112,000,000 shall be transferred to the Coast Guard ''Operating Expenses'' account.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for ''Operation and Maintenance, Marine Corps'', $2,900,000,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Operation and Maintenance, Air Force'', $5,000,000,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for ''Operation and Maintenance, Defense-Wide'', $2,648,569,000, of which not to exceed $200,000,000, to remain available until expended, may be used for payments to reimburse key cooperating nations, for logistical, military, and other support provided to United States military operations, notwithstanding any other provision of law: *Provided*, That these funds may be used for the purpose of providing specialized training and procuring supplies and specialized equipment and providing such supplies and loaning such equipment on a non-reimbursable basis to coalition forces supporting United States military operations in Iraq and Afghanistan: *Provided further*, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for ''Operation and Maintenance, Army Reserve'', $79,291,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for ''Operation and Maintenance, Navy Reserve'', $42,490,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for ''Operation and Maintenance, Marine Corps Reserve'', $47,076,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for ''Operation and Maintenance, Air Force Reserve'', $12,376,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Army National Guard'', $333,540,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Air National Guard'', $52,667,000.

AFGHANISTAN SECURITY FORCES FUND

For an additional amount for the ''Afghanistan Security Forces Fund'', $2,000,000,000, to remain available until September 30, 2009.

IRAQ SECURITY FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For the ''Iraq Security Forces Fund'', $1,000,000,000, to remain available until September 30, 2009: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Multi-National Security Transition Command—Iraq, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Iraq, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further*, That none of the assistance provided under this heading in the form of funds may be utilized for the provision of salaries, wages, or bonuses to personnel of the Iraqi Security Forces: *Provided further*, That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That the Secretary of Defense may transfer such funds to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purposes provided herein: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further*, That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and amounts of the funds received and the specific use of such contributions: *Provided further*, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for ''Aircraft Procurement, Army'', $84,000,000, to remain available for obligation until September 30, 2011.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for ''Procurement of Weapons and Tracked Combat Vehicles, Army'', $822,674,000, to remain available for obligation until September 30, 2011.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for ''Procurement of Ammunition, Army'', $46,500,000, to remain available for obligation until September 30, 2011.

OTHER PROCUREMENT, ARMY

For an additional amount for ''Other Procurement, Army'', $1,009,050,000, to remain available for obligation until September 30, 2011.

OTHER PROCUREMENT, NAVY

For an additional amount for ''Other Procurement, Navy'', $27,948,000, to remain available for obligation until September 30, 2011.

PROCUREMENT, MARINE CORPS

For an additional amount for ''Procurement, Marine Corps'', $565,425,000, to remain available for obligation until September 30, 2011.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for ''Aircraft Procurement, Air Force'', $201,842,000, to remain available for obligation until September 30, 2011.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for ''Other Procurement, Air Force'', $1,500,644,000, to remain available for obligation until September 30, 2011.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for ''Procurement, Defense-Wide'', $177,237,000, to remain available for obligation until September 30, 2011.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for ''Research, Development, Test and Evaluation, Navy'', $113,228,000, to remain available until September 30, 2010.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for ''Research, Development, Test and Evaluation, Air Force'', $72,041,000, to remain available until September 30, 2010.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for ''Research, Development, Test and Evaluation, Defense-Wide'', $202,559,000, to remain available until September 30, 2010.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for ''Defense Health Program'', $1,100,000,000 for operation and maintenance.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Drug Interdiction and Counter-Drug Activities, Defense'', $188,000,000.

JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Joint Improvised Explosive Device Defeat Fund'', $2,000,000,000, to remain available until September 30, 2011: *Provided,* That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Director of the Joint Improvised Explosive Device Defeat Organization to investigate, develop and provide equipment, supplies, services, training, facilities, personnel and funds to assist United States forces in the defeat of improvised explosive devices: *Provided further,* That within 60 days of the enactment of this Act, a plan for the intended management and use of the amounts provided under this heading shall be submitted to the congressional defense committees: *Provided further,* That the Secretary of Defense shall submit a report not later than 60 days after the end of each fiscal quarter to the congressional defense committees providing assessments of the evolving threats, individual service requirements to counter the threats, the current strategy for predeployment training of members of the Armed Forces on improvised explosive devices, and details on the execution of the Fund: *Provided further,* That the Secretary of Defense may transfer funds provided herein to appropriations for operation and maintenance; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purpose provided herein: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 11201. Appropriations provided in this chapter are not available for obligation until October 1, 2008.

SEC. 11202. Appropriations provided in this chapter are available for obligation until September 30, 2009, unless otherwise provided in this chapter.

(INCLUDING TRANSFER OF FUNDS)

SEC. 11203. Upon the determination of the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer between appropriations up to $4,000,000,000 of the funds made available to the Department of Defense in this chapter: *Provided,* That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: *Provided further,* That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of Public Law 110–116, except for the fourth proviso.

SEC. 11204. (a) Not later than December 5, 2008 and every 90 days thereafter through the end of fiscal year 2009, the Secretary of Defense shall set forth in a report to Congress a comprehensive set of performance indicators and measures for progress toward military and political stability in Iraq.

(b) The report shall include performance standards and goals for security, economic, and security force training objectives in Iraq together with a notional timetable for achieving these goals.

(c) In specific, the report requires, at a minimum, the following:

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

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

(B) The primary indicators of a stable security environment in Iraq, such as number of engagements per day, numbers of trained Iraqi forces, trends relating to numbers and types of ethnic and religious-based hostile encounters, and progress made in the transition of responsibility for the security of Iraqi provinces to the Iraqi Security Forces under the Provincial Iraqi Control (PIC) process.

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

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

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

(i) unemployment levels;

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

(iii) hunger and poverty levels.

(F) The most recent annual budget for the Government of Iraq, including a description of amounts budgeted for support of Iraqi security and police forces and an assessment of how planned funding will impact the training, equipping and overall readiness of those forces.

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

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

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

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

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

(i) capable of conducting counterinsurgency operations independently without any support from Coalition Forces;

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

(iii) not ready to conduct counterinsurgency operations.

(D) The amount and type of support provided by Coalition Forces to the Iraqi Security Forces at each level of operational readiness.

(E) The number of Iraqi battalions in the Iraqi Army currently conducting operations and the type of operations being conducted.

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

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

(H) The level and effectiveness of the Iraqi Security Forces under the Ministry of Defense in provinces where the United States has formally transferred responsibility for the security of the province to the Iraqi Security Forces under the Provincial Iraqi Control (PIC) process.

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

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

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

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

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

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

(vi) the level and effectiveness of the Iraqi Police and other Ministry of Interior Forces in provinces where the United States has formally transferred responsibility for the security of the province to the Iraqi Security Forces under the Provincial Iraqi Control (PIC) process.

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

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

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

(M) An assessment, in a classified annex if necessary, of United States military requirements, including planned force rotations, through the end of calendar year 2009.

SEC. 11205. (a) REPORT BY SECRETARY OF DEFENSE.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report that contains individual transition readiness assessments by unit of Iraq and Afghan security forces. The Secretary of Defense shall submit to the congressional defense committees updates of the report required by this subsection every 90 days after the date of the submission of the report until October 1, 2009. The report and updates of the report required by this subsection shall be submitted in classified form.

(b) REPORT BY OMB.—

(1) The Director of the Office of Management and Budget, in consultation with the Secretary of Defense; the Commander, Multi-National Security Transition Command—Iraq; and the Commander, Combined Security Transition Command—Afghanistan, shall submit to the congressional defense committees not later than 120 days after the date of the enactment of this Act and every 90 days thereafter a report on the proposed use of all funds under each of the headings ''Iraq Security Forces Fund'' and ''Afghanistan Security Forces Fund'' on a project-by-project basis, for which the obligation of funds is anticipated during the 3-month period from such date, including estimates by the commanders referred to in this paragraph of the costs required to complete each such project.

(2) The report required by this subsection shall include the following:

(A) The use of all funds on a project-by-project basis for which funds appropriated under the headings referred to in paragraph (1) were obligated prior to the submission of the report, including estimates by the commanders referred to in paragraph (1) of the costs to complete each project.

(B) The use of all funds on a project-by-project basis for which funds were appropriated under the headings referred to in paragraph (1) in prior appropriations Acts, or for which funds were made available by transfer, reprogramming, or allocation from other headings in prior appropriations Acts, including estimates by the commanders referred to in paragraph (1) of the costs to complete each project.

(C) An estimated total cost to train and equip the Iraq and Afghan security forces, disaggregated by major program and sub-elements by force, arrayed by fiscal year.

(c) NOTIFICATION.—The Secretary of Defense shall notify the congressional defense committees of any proposed new projects or transfers of funds between sub-activity groups in excess of $15,000,000 using funds appropriated by this Act under the headings ''Iraq Security Forces Fund'' and ''Afghanistan Security Forces Fund''.

SEC. 11206. Funds available to the Department of Defense for operation and maintenance provided in this chapter may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in Iraq and Afghanistan: *Provided*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section.

SEC. 11207. Supervision and administration costs associated with a construction project funded with appropriations available for operation and maintenance, ''Afghanistan Security Forces Fund'' or ''Iraq Security Forces Fund'' provided in this chapter, and executed in direct support of the Global War on Terrorism only in Iraq and Afghanistan, may be obligated at the time a construction contract is awarded: *Provided*, That for the purpose of this section, supervision and administration costs include all in-house Government costs.

(INCLUDING TRANSFER OF FUNDS)

SEC. 11208. (a) Notwithstanding any other provision of law, and in addition to amounts otherwise made available by this Act, there is appropriated $1,700,000,000 for the ''Mine Resistant Ambush Protected Vehicle Fund'', to remain available until September 30, 2009.

(b) The funds provided by subsection (a) shall be available to the Secretary of Defense to continue technological research and development and upgrades, to procure Mine Resistant Ambush Protected vehicles and associated support equipment, and to sustain, transport, and field Mine Resistant Ambush Protected vehicles.

(c)(1) The Secretary of Defense shall transfer funds provided by subsection (a) to appropriations for operation and maintenance; procurement; and research, development, test and evaluation to accomplish the purposes specified in subsection (b). Such transferred funds shall be merged with and be available for the same purposes and for the same time period as the appropriation to which they are transferred.

(2) The transfer authority provided by this subsection shall be in addition to any other transfer authority available to the Department of Defense.

(3) The Secretary of Defense shall, not less than 15 days prior to making any transfer under this subsection, notify the congressional defense committees in writing of the details of the transfer.

SEC. 11209. For the purposes of this Act, the term ''congressional defense committees'' means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

CHAPTER 3

GENERAL PROVISIONS—THIS TITLE

SEC. 11301. Each amount in this title is designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

SEC. 11302. Funds appropriated by this title, or made available by the transfer of funds in this title, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 11303. None of the funds made available in this Act may be used in contravention of the following laws enacted or regulations promulgated to implement the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984):

(1) Section 2340A of title 18, United States Code;

(2) Section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105–277; 112 Stat. 2681–822; 8 U.S.C. 1231 note) and regulations prescribed thereto, including regulations under part 208 of title 8, Code of Federal Regulations, and part 95 of title 22, Code of Federal Regulations; and

(3) Sections 1002 and 1003 of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109–148).

SEC. 11304. (a) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security, in coordination with the Chairman of the Joint Chiefs of Staff and the Director of National Intelligence, shall jointly submit to Congress a report setting forth the global strategy of the United States to combat and defeat al Qaeda and its affiliates.

(b) ELEMENTS OF STRATEGY.—The strategy set forth in the report required under subsection (a) shall include the following elements:

(1) An analysis of the global threat posed by al Qaeda and its affiliates, including an assessment of the relative threat posed in particular regions or countries.

(2) Recommendations regarding the distribution and deployment of United States military, intelligence, diplomatic, and other assets to meet the relative regional and country-specific threats described in paragraph (1).

(3) Recommendations to ensure that the global deployment of United States military personnel and equipment best meet the threat identified and described in paragraph (1) and:

(A) does not undermine the military readiness or homeland security of the United States;

(B) ensures adequate time between military deployments for rest and training; and

(C) does not require further extensions of military deployments to the extent practicable.

(c) CLASSIFIED ANNEX.—The report required by subsection (a) shall be submitted in unclassified form, but shall include a classified annex.

SEC. 11305. None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal years 2007 or 2008 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

SEC. 11306. Section 1002(c)(2) of the National Defense Authorization Act, Fiscal Year 2008 (Public Law 110–181) is amended by striking ''$362,159,000'' and inserting ''$435,259,000''.

SEC. 11307. None of the funds appropriated or otherwise made available by this title may be obligated or expended to provide award fees to any defense contractor contrary to the provisions of section 814 of the National Defense Authorization Act, Fiscal Year 2007 (Public Law 109–364).

(RESCISSIONS)

SEC. 11308. (a) Of the funds made available for ''Defense Health Program'' in Public Law 110–28, $75,000,000 are rescinded.

(b) Of the funds made available for ''Joint Improvised Explosive Device Defeat Fund'' in division L of the Consolidated Appropriations Act, 2008 (Public Law 110–161), $71,531,000 are rescinded.

SEC. 11309. Of the funds appropriated in the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28) which remain available for obligation under the ''Iraq Freedom Fund'', $150,000,000 is only for the Joint Rapid Acquisition Cell, and $10,000,000 is only for the transportation of fallen service members.

SEC. 11310. None of the funds available to the Department of Defense may be obligated or expended to implement any final action

on joint basing initiatives required under the 2005 round of defense base closure and realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) until each affected Secretary of a military department or the head of each affected Federal agency certifies to the congressional defense committees that joint basing at the affected military installation will result in significant costs savings and will not negatively impact the morale of members of the Armed Forces.

SEC. 11311. Funds available in this title which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment unit cost of not more than $250,000: *Provided,* That upon determination by the Secretary of Defense that such action is necessary to meet the operational requirements of a Commander of a Combatant Command engaged in contingency operations overseas, such funds may be used to purchase items having an investment item unit cost of not more than $500,000.

SEC. 11312. H–2B NONIMMIGRANTS. (a) SHORT TITLE.—This section may be cited as the ''Save Our Small and Seasonal Businesses Act of 2007''.

(b) EXTENSION OF RETURNING WORKER EXEMPTION TO H–2B NUMERICAL LIMITATION.—Section 214(g)(9)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(9)(A)) is amended by striking ''an alien who has already been counted toward the numerical limitation of paragraph (1)(B) during fiscal year 2004, 2005, or 2006 shall not again be counted toward such limitation during fiscal year 2007.'' and inserting ''an alien who has been present in the United States as an H–2B nonimmigrant during any 1 of the 3 fiscal years immediately preceding the fiscal year of the approved start date of a petition for a nonimmigrant worker described in section 101(a)(15)(H)(ii)(b) shall not be counted toward such limitation for the fiscal year in which the petition is approved.''.

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall be effective during the 3-year period beginning on October 1, 2007.

SA 4788. Mr. BYRD submitted an amendment intended to be proposed by him to the House amendment to the amendment of the Senate to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the language proposed to be inserted, insert the following:

TITLE XII

POLICY REGARDING OPERATIONS IN IRAQ

UNITS DEPLOYED FOR COMBAT TO BE FULLY MISSION CAPABLE

SEC. 12001. (a) The Congress finds that it is the policy of the Department of Defense that units should not be deployed for combat unless they are rated ''fully mission capable''.

(b) None of the funds made available by this Act may be used to deploy any unit of the Armed Forces to Iraq unless the President has certified in writing to the Committees on Appropriations and the Committees on Armed Services of the House of Representatives and the Senate at least 15 days in advance of the deployment that the unit is fully mission capable in advance of entry into Iraq.

(c) For purposes of subsection (b), the term ''fully mission capable'' means capable of performing assigned mission essential tasks to the prescribed standards under the conditions expected in the theater of operation, consistent with the guidelines set forth in the DoD Directive 7730.65, Subject: Department of Defense Readiness Reporting System; the Interim Force Allocation Guidance to the Global Force Management Board, dated February 6, 2008; and Army Regulation 220-1, Subject: Unit Status Reporting, dated December 19, 2006.

(d) The President, by certifying in writing to the Committees on Appropriations and the Committees on Armed Services of the House of Representatives and the Senate that the deployment to Iraq of a unit that is not assessed mission capable is required for reasons of national security and by submitting along with the certification a report in classified and unclassified form detailing the particular reason or reasons why the unit's deployment is necessary despite the unit commander's assessment that the unit is not mission capable, may waive the limitations prescribed in subsection (b) on a unit-by-unit basis.

TIME LIMIT ON COMBAT DEPLOYMENTS

SEC. 12002. (a) The Congress finds that it is the policy of the Department of Defense that Army, Army Reserve, and National Guard units should not be deployed for combat beyond 365 days or that Marine Corps and Marine Corps Reserve units should not be deployed for combat beyond 210 days.

(b) None of the funds made available in this or any other Act may be obligated or expended to initiate the development of, continue the development of, or execute any order that has the effect of extending the deployment for Operation Iraqi Freedom of—

(1) any unit of the Army, Army Reserve, or Army National Guard beyond 365 days; or

(2) any unit of the Marine Corps or Marine Corps Reserve beyond 210 days.

(c) The limitation prescribed in subsection (b) shall not be construed to require force levels in Iraq to be decreased below the total United States force levels in Iraq as of January 9, 2007.

(d) The President may waive the limitations prescribed in subsection (b) on a unit-by-unit basis if the President certifies in writing to the Committees on Appropriations and the Committees on Armed Services of the House of Representatives and the Senate that the extension of a unit's deployment in Iraq beyond the period applicable to the unit under such subsection is required for reasons of national security. The certification shall include a report, in classified and unclassified form, detailing the particular reason or reasons why the unit's extended deployment is necessary.

DWELL TIME BETWEEN COMBAT DEPLOYMENTS

SEC. 12003. (a) The Congress finds that it is the policy of the Department of Defense that an Army, Army Reserve, or National Guard unit should not be redeployed for combat if the unit has been deployed within the previous 365 consecutive days and that a Marine Corps or Marine Corps Reserve unit should not be redeployed for combat if the unit has been deployed within the previous 210 days.

(b) None of the funds made available in this or any other Act may be obligated or expended to initiate the development of, continue the development of, or execute any order that has the effect of deploying for Operation Iraqi Freedom of—

(1) any unit of the Army, Army Reserve, or Army National Guard if such unit has been deployed within the previous 365 consecutive days; or

(2) any unit of the Marine Corps or Marine Corps Reserve if such unit has been deployed within the previous 210 consecutive days.

(c) The limitation prescribed in subsection (b) shall not be construed to require force levels in Iraq to be decreased below the total United States force levels in Iraq as of January 9, 2007.

(d) The President may waive the limitations prescribed in subsection (b) on a unit-by-unit basis if the President certifies in writing to the Committees on Appropriations and the Committees on Armed Services of the House of Representatives and the Senate that the redeployment of a unit to Iraq in advance of the expiration of the period applicable to the unit under such subsection is required for reasons of national security. The certification shall include a report, in classified and unclassified form, detailing the particular reason or reasons why the unit's early redeployment is necessary.

PROHIBITION OF PERMANENT BASES IN IRAQ

SEC. 12004. None of the funds appropriated or otherwise made available in this or any other Act may be obligated or expended by the United States Government for a purpose as follows:

(1) To establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq.

(2) To exercise United States control over any oil resource of Iraq.

TRANSITION OF THE MISSION OF UNITED STATES FORCES IN IRAQ

SEC. 12005. It is the sense of Congress that the missions of the United States Armed Forces in Iraq should be transitioned to counterterrorism operations; training, equipping and supporting Iraqi forces; and force protection, with the goal of completing that transition by June 2009.

LIMITATION ON DEFENSE AGREEMENTS WITH THE GOVERNMENT OF IRAQ

SEC. 12006. None of the funds appropriated or otherwise made available by this Act or any other Act shall be available for the implementation of any agreement between the United States and the Republic of Iraq containing a security commitment, arrangement, or assurance unless the agreement has entered into force in the form of a Treaty under section 2, clause 2 of Article II of the Constitution of the United States or has been authorized by a law enacted pursuant to section 7, clause 2 of Article I of the Constitution of the United States.

PROHIBITION ON AGREEMENTS SUBJECTING ARMED FORCES TO IRAQI CRIMINAL JURISDICTION

SEC. 12007. None of the funds made available in this or any other Act may be used to negotiate, enter into, or implement an agreement with the Government of Iraq that would subject members of the Armed Forces of the United States to the jurisdiction of Iraq criminal courts or punishment under Iraq law.

REPORT ON IRAQ BUDGET

SEC. 12008. As part of the report required by section 609 of division L of the Consolidated Appropriations Act, 2008 (Public Law 110–161), the Secretary of Defense shall submit to Congress a report on the most recent annual budget for the Government of Iraq, including—

(1) a description of amounts budgeted for support of Iraqi security and police forces and an assessment of how planned funding will impact the training, equipping and overall readiness of those forces;

(2) an assessment of the capacity of the Government of Iraq to implement the budget as planned, including reports on year-to-year spend rates, if available; and

(3) a description of any budget surplus or deficit, if applicable.

PARTIAL REIMBURSEMENT FROM IRAQ FOR FUEL COSTS

SEC. 12009. (a) Not more than 20 percent of the funds made available in this Act under the heading ''Operation and Maintenance, Defense-Wide'' for the Office of the Secretary of Defense or Washington Headquarters Services may be obligated or expended unless and until the agreement described in subsection (b)(1) is complete and the report required by subsection (b)(2) has been transmitted to Congress, except that the limitation in this subsection may be waived if the President determines and certifies to the Committees on Appropriations of the House of Representatives and Senate that such waiver is in the national security interests of the United States.

(b) Not later than 90 days after enactment of this Act, the President shall—

(1) complete an agreement with the Government of Iraq to subsidize fuel costs for United States Armed Forces operating in Iraq so the price of fuel per gallon to those forces is equal to the discounted price per gallon at which the Government of Iraq is providing fuel for domestic Iraqi consumption; and

(2) transmit a report to the House and Senate Committees on Appropriations on the details and terms of that agreement.

(c) Amounts received from the Government of Iraq under an agreement described in subsection (b)(1) shall be credited to the appropriations or funds that incurred obligations for the fuel costs being subsidized, as determined by the Secretary of Defense.

PROHIBITION ON WAR PROFITEERING

SEC. 12010. (a) PROHIBITION ON WAR PROFITEERING.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''§ 1041. War profiteering and fraud

''(a) PROHIBITION.—Whoever, in any matter involving a contract with, or the provision of goods or services to, the United States or a provisional authority, in connection with a mission of the United States Government overseas, knowingly—

''(1)(A) executes or attempts to execute a scheme or artifice to defraud the United States or that authority; or

''(B) materially overvalues any good or service with the intent to defraud the United States or that authority;

shall be fined not more than $1,000,000 or imprisoned not more than 20 years, or both; or

''(2) in connection with the contract or the provision of those goods or services—

''(A) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

''(B) makes any materially false, fictitious, or fraudulent statements or representations; or

''(C) makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined not more than $1,000,000 or imprisoned not more than 10 years, or both.

''(b) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

''(c) VENUE.—A prosecution for an offense under this section may be brought—

''(1) as authorized by chapter 211 of this title;

''(2) in any district where any act in furtherance of the offense took place; or

''(3) in any district where any party to the contract or provider of goods or services is located.''.

(2) TABLE OF SECTIONS.—The table of sections for chapter 47 of such title is amended by adding at the end the following:

''1041. War profiteering and fraud.''.

(b) CRIMINAL FORFEITURE.—Section 982(a)(2)(B) of title 18, United States Code, is amended by striking ''or 1030'' and inserting ''1030, or 1041''.

(c) MONEY LAUNDERING.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting ''section 1041 (relating to war profiteering and fraud),'' after ''liquidating agent of financial institution),''.

(d) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting ''section 1041 (relating to war profiteering and fraud),'' after ''in connection with access devices),''.

WARTIME CONTRACT FRAUD STATUTE ON LIMITATION EXTENSION

SEC. 12011. Section 3287 of title 18, United States Code, is amended—

(1) by inserting ''or Congress has enacted a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b)),'' after ''is at war'';

(2) by inserting ''or directly connected with or related to the authorized use of the Armed Forces'' after ''prosecution of the war'';

(3) by striking ''three years'' and inserting ''5 years'';

(4) by striking ''proclaimed by the President'' and inserting ''proclaimed by a Presidential proclamation, with notice to Congress,''; and

(5) by adding at the end the following: ''For purposes of applying such definitions in this section, the term 'war' includes a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b)).''.

CONTRIBUTIONS BY THE GOVERNMENT OF IRAQ TO LARGE-SCALE INFRASTRUCTURE PROJECTS, COMBINED OPERATIONS, AND OTHER ACTIVITIES IN IRAQ

SEC. 12012. (a) LARGE-SCALE INFRASTRUCTURE PROJECTS.—

(1) LIMITATION ON AVAILABILITY OF UNITED STATES FUNDS FOR PROJECTS.—Amounts appropriated by this Act for the Department of Defense for United States assistance (other than amounts described in paragraph (3)) may not be obligated or expended for any large-scale infrastructure project in Iraq that is commenced after the date of the enactment of this Act.

(2) FUNDING OF RECONSTRUCTION PROJECTS BY THE GOVERNMENT OF IRAQ.—The Secretary of Defense shall work with the Government of Iraq to provide that the Government of Iraq shall obligate and expend funds of the Government of Iraq for reconstruction projects in Iraq that are not large-scale infrastructure projects before obligating and expending funds appropriated by this Act for the Department of Defense (other than amounts described in paragraph (3)) for such projects.

(3) EXCEPTION FOR CERP.—The limitations in paragraphs (1) and (2) do not apply to amounts appropriated by this Act for the Commanders' Emergency Response Program (CERP).

(4) LARGE-SCALE INFRASTRUCTURE PROJECT DEFINED.—In this subsection, the term ''large-scale infrastructure project'' means any construction project for infrastructure in Iraq that is estimated by the United States Government at the time of the commencement of the project to cost at least $2,000,000.

(b) COMBINED OPERATIONS.—

(1) IN GENERAL.—The Secretary of Defense shall initiate negotiations with the Government of Iraq on an agreement under which the Government of Iraq shall share with the United States Government the costs of combined operations of the Government of Iraq and the Multinational Forces Iraq undertaken as part of Operation Iraqi Freedom.

(2) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report describing the status of negotiations under paragraph (1).

(c) IRAQI SECURITY FORCES.—

(1) IN GENERAL.—The United States Government shall take actions to ensure that Iraq funds are used to pay the following:

(A) The costs of the salaries, training, equipping, and sustainment of Iraqi Security Forces.

(B) The costs associated with the Sons of Iraq.

(2) REPORTS.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to Congress a report setting forth an assessment of the progress made in meeting the requirements of paragraph (1).

NOTIFICATION OF THE RED CROSS

SEC. 12013. (a) REQUIREMENT.—None of the funds appropriated by this or any other Act may be used to detain any individual who is in the custody or under the effective control of an element of the intelligence community (as that term is defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)) or an instrumentality of such element if the International Committee of the Red Cross is not provided notification of the detention of such individual and access to such individual in a manner consistent with the practices of the Armed Forces.

(b) CONSTRUCTION.—Nothing in this subsection shall be construed—

(1) to create or otherwise imply the authority to detain; or

(2) to limit or otherwise affect any other rights or obligations which may arise under the Geneva Conventions or other laws, or to state all of the situations under which notification to and access for the International Committee of the Red Cross is required or allowed.

(c) INSTRUMENTALITY DEFINED.—In this section, the term ''instrumentality'', with respect to an element of the intelligence community, means a contractor or subcontractor at any tier of the element of the intelligence community.

SEC. 12014. (a) Of the amount appropriated or otherwise made available by the Act for the Department of Defense, up to $3,000,000 shall be available to a Federally Funded Research and Development Center (FFRDC) to conduct an examination and analysis of the feasibility and mechanics of implementing a safe and orderly phased redeployment of United States military forces from Iraq over a 12-month time period and an 18-month time period. The examination and analysis of a safe and orderly phased redeployment pursuant to this subsection shall (1) assume a scenario in which 40,000 United States military forces remain in Iraq for the purpose of protecting United States and coalition personnel and infrastructure, training and equipping Iraqi forces, and conducting targeted counterterrorism operations and (2) assume a scenario in which 100,000 United States military forces remains in Iraq for such purpose.

(b) Not later than 180 days after the date of the enactment of this Act the FFRDC shall provide the analysis and examination developed pursuant to subsection (a) to the Secretary of Defense. The Secretary shall submit the analysis and examination to the congressional defense committees in classified form, and shall include an unclassified summary of key judgments.

TITLE XIII—MILITARY EXTRATERRITORIAL JURISDICTION MATTERS

SEC. 13001. SHORT TITLE.

This title may be cited as the ''MEJA Expansion and Enforcement Act of 2008''.

SEC. 13002. LEGAL STATUS OF CONTRACT PERSONNEL.

(a) CLARIFICATION OF MILITARY EXTRATERRITORIAL JURISDICTION ACT.—

(1) INCLUSION OF FEDERAL EMPLOYEES AND CONTRACTORS.—Section 3261(a) of title 18, United States Code, is amended—

(A) in paragraph (1), by striking ''or'' at the end;

(B) in paragraph (2), by striking the comma at the end and inserting a semicolon; and

(C) by inserting after paragraph (2) the following new paragraphs:

''(3) while employed by any Department or agency of the United States other than the Armed Forces in a foreign country in which the Armed Forces are conducting a qualifying military operation; or

''(4) while employed as a security officer or security contractor by any Department or agency of the United States other than the Armed Forces,''.

(2) DEFINITIONS.—Section 3267 of title 18, United States Code, is amended—

(A) in paragraph (1), by striking subparagraph (A) and inserting the following new subparagraph:

''(A) employed by or performing services under a contract with or grant from the Department of Defense (including a nonappropriated fund instrumentality of the Department) as—

''(i) a civilian employee (including an employee from any other Executive agency on temporary assignment to the Department of Defense);

''(ii) a contractor (including a subcontractor at any tier); or

''(iii) an employee of a contractor (including a subcontractor at any tier);''; and

(B) by adding at the end the following new paragraphs:

''(5) The term 'employed by any Department or agency of the United States other than the Armed Forces' means—

''(A) employed by or performing services under a contract with or grant from any Department or agency of the United States, or any provisional authority funded in whole or substantial part or created by the United States Government, other than the Department of Defense as—

''(i) a civilian employee;

''(ii) a contractor (including a subcontractor at any tier); or

''(iii) an employee of a contractor (including a subcontractor at any tier);

''(B) present or residing outside the United States in connection with such employment; and

''(C) not a national of or ordinarily a resident in the host nation.

''(6) The term 'employed as a security officer or security contractor by any Department or agency of the United States other than the Armed Forces' means—

''(A) employed by or performing services under a contract with or grant from any Department or agency of the United States, or any provisional authority funded in whole or substantial part or created by the United States Government, other than the Department of Defense as—

''(i) a civilian employee;

''(ii) a contractor (including a subcontractor at any tier); or

''(iii) an employee of a contractor (including a subcontractor at any tier);

''(B) authorized in the course of such employment—

''(i) to provide physical protection to or security for persons, places, buildings, facilities, supplies, or means of transportation;

''(ii) to carry or possess a firearm or dangerous weapon, as defined by section 930(g)(2) of this title;

''(iii) to use force against another; or

''(iv) to supervise individuals performing the activities described in clause (i), (ii) or (iii);

''(C) present or residing outside the United States in connection with such employment; and

''(D) not a national of or ordinarily resident in the host nation.

''(7) The term 'qualifying military operation' means—

''(A) a military operation covered by a declaration of war or an authorization of the use of military force by Congress;

''(B) a contingency operation (as defined in section 101 of title 10); or

''(C) any other military operation outside of the United States, including a humanitarian assistance or peace keeping operation, provided such operation is conducted pursuant to an order from or approved by the Secretary of Defense.''.

(b) DEPARTMENT OF JUSTICE INSPECTOR GENERAL REPORT.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Inspector General of the Department of Justice, in consultation with the Inspectors General of the Department of Defense, the Department of State, the United States Agency for International Development, the Department of Agriculture, the Department of Energy, and other appropriate Federal departments and agencies, shall submit to Congress a report in accordance with this subsection.

(2) CONTENT OF REPORT.—The report under paragraph (1) shall include, for the period beginning on October 1, 2001, and ending on the date of the report—

(A) unless the description pertains to nonpublic information that relates to an ongoing investigation or criminal or civil proceeding under seal, a description of any alleged violations of section 3261 of title 18, United States Code, reported to the Inspector Generals identified in paragraph (1) or the Department of Justice, including—

(i) the date of the complaint and the type of offense alleged;

(ii) whether any investigation was opened or declined based on the complaint;

(iii) whether the investigation was closed, and if so, when it was closed;

(iv) whether a criminal or civil case was filed as a result of the investigation, and if so, when it was filed; and

(v) any charges or complaints filed in those cases; and

(B) unless the description pertains to nonpublic information that relates to an ongoing investigation or criminal or civil proceeding under seal, and with appropriate safeguards for the protection of national security information, a description of any shooting or escalation of force incidents in Iraq or Afghanistan involving alleged misconduct by persons employed as a security officer or security contractor by any Department or agency of the United States, and any official action taken against such persons.

(3) FORM OF REPORT.—The report under paragraph (1) shall be submitted in unclassified form, but may contain a classified annex as appropriate.

SEC. 13003. INVESTIGATIVE UNITS FOR CONTRACTOR OVERSIGHT.

(a) ESTABLISHMENT OF INVESTIGATIVE UNITS FOR CONTRACTOR OVERSIGHT.—

(1) IN GENERAL.—The Attorney General, in consultation with the Secretary of Defense, the Secretary of State, the Secretary of Homeland Security, and the heads of any other Federal departments or agencies responsible for employing private security contractors or contractors (or subcontractors at any tier) in a foreign country where the Armed Forces are conducting a qualifying military operation—

(A) shall assign adequate personnel and resources through the creation of Investigative Units for Contractor Oversight to investigate allegations of criminal violations under paragraphs (3) and (4) of section 3261(a) of title 18, United States Code (as amended by section 13002(a) of this Act); and

(B) may authorize the overseas deployment of law enforcement agents and other Department of Justice personnel for that purpose.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall limit any existing authority of the Attorney General or any Federal law enforcement agency to investigate violations of Federal law or deploy personnel overseas.

(b) REFERRAL FOR PROSECUTION.—Upon conclusion of an investigation of an alleged violation of sections 3261(a)(3) and 3261(a)(4) of title 18, United States Code, an Investigative Unit for Contractor Oversight may refer the matter to the Attorney General for further action, as appropriate in the discretion of the Attorney General.

(c) RESPONSIBILITIES OF THE ATTORNEY GENERAL.—

(1) INVESTIGATION.—The Attorney General shall have the principal authority for the enforcement of sections 3261(a)(3) and 3261(a)(4) of title 18, United States Code, and shall have the authority to initiate, conduct, and supervise investigations of any alleged violations of such sections 3261(a)(3) and 3261(a)(4).

(2) ASSISTANCE ON REQUEST OF THE ATTORNEY GENERAL.—Notwithstanding any statute, rule, or regulation to the contrary, the Attorney General may request assistance from the Secretary of Defense, the Secretary of State, or the head of any other Executive agency to enforce this title. This requested assistance may include the assignment of additional personnel and resources to an Investigative Unit for Contractor Oversight established by the Attorney General under subsection (a).

(3) ANNUAL REPORT.—Not later than one year after the date of enactment of this Act, and annually thereafter, the Attorney General, in consultation with the Secretary of Defense and the Secretary of State, shall submit to Congress a report containing—

(A) the number of violations of sections 3261(a)(3) and 3261(a)(4) of title 18, United States Code, received, investigated, and referred for prosecution by Federal law enforcement authorities during the previous year;

(B) the number and location of Investigative Units for Contractor Oversight deployed to investigate violations of such sections 3261(a)(3) and 3261(a)(4) during the previous year; and

(C) any recommended changes to Federal law that the Attorney General considers necessary to enforce this title and the amendments made by this title and chapter 212 of title 18, United States Code.

SEC. 13004. REMOVAL PROCEDURES FOR NON-DEPARTMENT OF DEFENSE EMPLOYEES AND CONTRACTORS.

(a) ATTORNEY GENERAL REGULATIONS.—Section 3266 of title 18, United States Code, is amended by adding at the end the following:

''(d) The Attorney General, after consultation with the Secretary of Defense, the Secretary of State, and the Director of National Intelligence, may prescribe regulations governing the investigation, apprehension, detention, delivery, and removal of persons described in sections 3261(a)(3) and 3261(a)(4) and describing the notice due, if any, foreign nationals potentially subject to the criminal jurisdiction of the United States under those sections.''.

(b) CLARIFYING AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Chapter 212 of title 18, United States Code, is amended—

(A) in section 3262—

(i) in subsection (a), by striking ''section 3261(a)'' the first place it appears and inserting ''section 3261(a)(1) or 3261(a)(2)'';

(ii) by redesignating subsection (b) as subsection (c); and

(iii) by inserting after subsection (a) the following new subsection (b):

''(b) The Attorney General may designate and authorize any person serving in a law enforcement position in the Department of Justice, the Department of Defense, the Department State, or any other Executive agency to arrest, in accordance with applicable international agreements, outside the United States any person described in section 3261(a) if there is probable cause to believe that such person violated section 3261(a).'';

(B) in section 3263(a), by striking ''section 3261(a)'' the first place it appears and inserting ''section 3261(a)(1) or 3261(a)(2)'';

(C) in section 3264(a), by inserting ''described in section 3261(a)(1) or 3261(a)(2)'' before ''arrested'';

(D) section 3265(a)(1) by inserting ''described in section 3261(a)(1) or 3261(a)(2)'' before ''arrested''; and

(E) in section 3266(a), by striking ''under this chapter'' and inserting ''described in section 3261(a)(1) or 3261(a)(2)''.

(2) ADDITIONAL AMENDMENT.—Section 7(9) of title 18, United States Code, is amended by striking ''section 3261(a)'' and inserting ''section 3261(a)(1) or 3261(a)(2)''.

SEC. 13005. EXISTING EXTRATERRITORIAL JURISDICTION.

Nothing in this title or the amendments made by this title shall be construed to limit or affect the extraterritorial jurisdiction related to any Federal statute not amended by this title.

SEC. 13006. DEFINITION.

For purposes of this title and the amendments made by this title, the term ''Executive agency'' has the meaning given in section 105 of title 5, United States Code.

SEC. 13007. EFFECTIVE DATE.

(a) IMMEDIATE EFFECTIVENESS.—The provisions of this title shall enter into effect immediately upon the enactment of this Act.

(b) IMPLEMENTATION.—The Attorney General and the head of any other Federal department or agency to which this title applies shall have 90 days after the date of the enactment of this Act to ensure compliance with the provisions of this title.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a field hearing has been scheduled before the Subcommittee on Water and Power. The hearing will be held on Tuesday, May 27, 2008, at 2 p.m., at the Best Western Ramkota Hotel and Conference Center, located at 3200 W. Maple Street, in Sioux Falls, South Dakota.

The purpose of the hearing is to receive testimony on the Bureau of Reclamation's implementation of the Rural Water Supply Act of 2006, and the status of implementation of authorized rural water projects in the Great Plains Region.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to Gina_*Weinstock@energy.senate.gov*.

For further information, please contact Michael Connor at (202) 224–5479 or Gina Weinstock at (202) 224–5684.

COMMITTEE ON RULES AND ADMINISTRATION

Mrs. FEINSTEIN. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Wednesday, May 21, 2008, at 2 p.m. to hear testimony on the nominations of Cynthia L. Bauerly, Caroline C. Hunter, and Donald F. McGahn to be members of the Federal Election Commission.

For further information regarding this hearing, please contact Howard Gantman at the Rules and Administration Committee, 224–6352.

COMMITTEE ON RULES AND ADMINISTRATION

Mrs. FEINSTEIN. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Wednesday, May 21, 2008, at 2:45 p.m., upon completion of the FEC confirmation hearing, to conduct an executive business meeting to consider the nominations of Cynthia L. Bauerly, Caroline C. Hunter, and Donald F. McGahn to be members of the Federal Election Commission.

For further information regarding this hearing, please contact Howard Gantman at the Rules and Administration Committee, 224–6352.

PRIVILEGES OF THE FLOOR

Mr. WHITEHOUSE. Madam President, on behalf of Senator CONRAD, I ask unanimous consent that the following staff of the Budget Committee be granted full floor access privileges during consideration of the conference report to accompany the fiscal year 2009 concurrent resolution on the budget: John Righter, Joel Friedman, Steve Posner, Jim Hearn, Cheri Reidy, and Dave Fisher.

I further ask unanimous consent that Brock Ramos, a fellow on the Budget Committee staff, be granted floor privileges during consideration of the conference report to accompany the fiscal year 2009 concurrent resolution on the budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPRESSING THE SENSE OF THE SENATE REGARDING THE CHINA EARTHQUAKE

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 569, a resolution introduced earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 569) expressing the sense of the Senate regarding the earthquake that struck Sichuan Province of the People's Republic of China on May 12, 2008.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. Madam President, I further ask that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 569) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 569

Whereas, on May 12, 2008, a powerful earthquake measuring 7.9 on the Richter Scale struck Wenchuan County in the Sichuan Province of the People's Republic of China, leaving at least 34,000 people dead, 245,000 people injured, and an estimated 5,000,000 people homeless;

Whereas authorities of the Government of the People's Republic of China report that approximately 9,500 people remain buried in Sichuan Province and another 29,000 people remain missing;

Whereas authorities of the Government of the People's Republic of China report that the final death toll is expected to exceed 50,000;

Whereas authorities of the Government of the People's Republic of China also report that as many as 4,700,000 homes were destroyed in Sichuan, Gansu, and Shaanxi Provinces and nearly 80 percent of the buildings collapsed in Beichuan County;

Whereas the sheer devastation caused by the earthquake and inclement weather has made rescue efforts exceptionally difficult, particularly in the areas hardest hit by the earthquake;

Whereas authorities of the Government of the People's Republic of China report that 158 relief workers were killed in landslides while working to repair roads in the areas most devastated by the earthquake;

Whereas the Seismological Bureau of the People's Republic of China reports that the earthquake has affected more than half of China's provinces and municipalities;

Whereas authorities of the Government of the People's Republic of China report that more than 2,000 aftershocks have occurred in the aftermath of the earthquake, some greater than a magnitude of 6.0 on the Richter Scale;

Whereas authorities of the Government of the People's Republic of China also report that 6,898 schoolrooms collapsed in Sichuan Province, trapping and killing hundreds of young students and their teachers;

Whereas the earthquake of May 12, 2008, was China's deadliest natural disaster since 1976, when hundreds of thousands of people were killed by an earthquake that struck the city of Tangshan;

Whereas, on May 12, 2008, President George W. Bush said that the United States ''stands ready to help in any way possible''; and

Whereas the Prime Minister of China, Wen Jiabao, said on May 13, 2008, that ''[t]he death toll and damage are more serious than we expected and we need more people here to help'': Now, therefore, be it

Resolved, That the Senate—

(1) mourns the horrific loss of life and terrible human suffering caused by the earthquake in the People's Republic of China on May 12, 2008;

(2) expresses its deep condolences to the people of the People's Republic of China and to all those affected by this enormous tragedy;

(3) expresses its profound sorrow for the families of all who lost loved ones, including those who suffered the heartbreaking loss of having their children trapped in schools that collapsed;

(4) calls on the President to respond to any requests for humanitarian assistance made by the Government of the People's Republic of China; and

(5) stands ready to support the provision of additional resources, as necessary, to assist those impacted by the earthquake.

CONGRATULATING ALBANIA AND CROATIA

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 570, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 570) congratulating Albania and Croatia on being invited to begin accession talks with the North Atlantic Treaty Organization and expressing support for continuing to enlarge the alliance.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 570) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 570

Whereas the North Atlantic Treaty Organization (NATO) met in April 2008 to enlarge the alliance, to reaffirm the purpose of NATO to defend the populations, territories, and forces in the Euro-Atlantic region, and to further strengthen the ability of NATO to confront existing and emerging 21st-century security threats;

Whereas NATO invited Albania and Croatia to begin accession talks to join NATO and indicated that those talks will begin immediately, with the aim of signing Accession Protocols by the end of July 2008 and completing the ratification process without delay;

Whereas NATO expressed recognition of the hard work and commitment demonstrated by other countries that aspire to join NATO and commended those countries for their efforts to build multiethnic societies;

Whereas NATO agreed that Ukraine and Georgia have made valuable contributions to NATO operations, expressed clear support for the applications for Membership Action Plans from Ukraine and Georgia as the next step to full membership, and stated that NATO will begin a period of intensive engagement with Ukraine and Georgia to assess those applications for the December 2008 meeting;

Whereas NATO invited Bosnia and Herzegovina and Montenegro to begin an Intensified Dialogue on the full range of political, military, financial, and security issues relating to their aspirations to join NATO;

Whereas NATO expressed the desire to develop an ambitious and substantive relationship with Serbia, making full use of Serbia's membership in the Partnership for Peace, and to make more progress toward integrating Serbia into the Euro-Atlantic community, including though an Intensified Dialogue following a request by Serbia; and

Whereas NATO's ongoing enlargement process has been a historic success in advancing stability and cooperation and reaching the transatlantic goal of ensuring that Europe is whole and free, and united in peace, democracy, and common values: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Albania and Croatia on being invited by the North Atlantic Treaty Organization (NATO) to begin accession talks and recognizes the historic nature of that achievement, earned through years of hard work and a demonstrated commitment to common security and the shared values of NATO members;

(2) expresses strong support for the timely completion of the accession process with Albania and Croatia.

(3) fully supports the invitations to initiate an Intensified Dialogue between NATO and Bosnia and Herzegovina, Montenegro, and Serbia;

(4) continues to strongly support the aspirations of Ukraine and Georgia to become integrated into the Euro-Atlantic community, as reaffirmed in Senate Resolution 523, 110th Congress, agreed to April 28, 2008;

(5) supports the enlargement of NATO and believes that continued engagement with all countries that aspire to join NATO will strengthen security for all countries in the Euro-Atlantic region;

(6) supports the declaration of NATO at the Bucharest Summit, which states that NATO's door should remain open to European democracies willing and able to assume the responsibilities and obligations of membership, in accordance with Article 10 of the North Atlantic Treaty, signed at Washington April 4, 1949 (TIAS 1964); and

(7) affirms the statement in that declaration that any decision with respect to the membership of countries in NATO will be made through consensus, by members of NATO, and no country outside of NATO has a vote or veto with respect to such decisions.

AUTHORIZATION OF CALCULATORS

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that the use of calculators be permitted on the floor of the Senate during consideration of the conference report on the 2009 concurrent resolution on the budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR NOS. 537, 538, and 574

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that on Tuesday, May 20, at 12 noon, the Senate proceed to executive session to consider the following nominations, with the debate time equally divided and controlled between the chair and ranking member or their designees until 12:30 p.m.: Executive Calendar No. 537, the nomination of Michael G. McGinn; Executive Calendar No. 538, the nomination of Ralph E. Martinez; finally, Executive Calendar No. 574, the nomination of G. Steven Agee; that the nominees be debated concurrently; that at 2:15 p.m., there be 15 additional minutes, equally divided and controlled between Senators WEBB and WARNER or their designees; that at 2:30 p.m., the Senate proceed to vote on confirmation of the nomination of G. Steven Agee; that upon confirmation of the Agee nomination, Calendar Nos. 537 and 538 be confirmed by consent and the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action, no further motions be in order, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, MAY 20, 2008

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m., Tuesday, May 20; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to a period for the transaction of morning business until 12 noon, with Senators permitted to speak for up to 10 minutes each, with the first hour equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first 30 minutes and the majority controlling the next 30 minutes; that following morning business, the Senate proceed to executive session under the previous order. I further ask unanimous consent that the Senate recess from 12:30 p.m. until 2:15 p.m. to allow for the weekly caucus luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. WHITEHOUSE. Madam President, under a previous order, the first vote of the day will occur at 2:30 p.m. on the confirmation of the nomination of G. Steven Agee to be U.S. Circuit Judge for the Fourth Circuit. Following executive session, we are expected to turn to the consideration of the House message to accompany H.R. 2642, the Iraq supplemental appropriations bill.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. WHITEHOUSE. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 5:58 p.m., adjourned until Tuesday, May 20, 2008, at 10 a.m.