United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155 WASHINGTON, FRIDAY, JUNE 12, 2009 No. 88

Senate

The Senate was not in session today. Its next meeting will be held on Monday, June 15, 2009, at 1:45 p.m.

House of Representatives

FRIDAY, JUNE 12, 2009

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. ALTMIRE).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 12, 2009.

I hereby appoint the Honorable JASON ALTMIRE to act as Speaker pro tempore on this day.

NANCY PELOSI,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord of the Sabbath, ever attentive to our prayers, may this weekend provide the Members of Congress, their families and their friends the joy of Your presence in their midst. May they find the respite they need for both their bodies and their souls.

So renewed in energy and spirit, may they safely return to serve You and the people of their districts with greater vigor and determination. Then blessed by You, may they accomplish great deeds for this Nation, calling upon Your Holy Name, both now and forever.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Texas (Mr. POE) come forward and lead the House in the Pledge of Allegiance.

Mr. POE of Texas 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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to five requests for 1-minute speeches on each side of the aisle.

FUNDING FOR STATE CRIMINAL ALIEN ASSISTANCE PROGRAM

(Mr. MITCHELL asked and was given permission to address the House for 1 minute.)

Mr. MITCHELL. Mr. Speaker, I rise today to protest the 25 percent cut proposed this week to the State Criminal Alien Assistance Program, otherwise known as SCAAP. SCAAP reimburses States and localities for the arrest, incarceration and transportation of undocumented immigrants who commit crimes in our communities. When State and local governments are forced to step in and do the Federal Government's job, it is only fair that they be reimbursed.

Last year, the Arizona Department of Corrections received $12.8 million from the Federal Government to house up to 5,600 criminal illegal immigrants in State prisons, only 10 percent of what Arizona spent to house illegal inmates that year. This cut is wrong, and as this legislation moves to the floor next week, I urge my colleagues to help me fight this cut.

If we are serious about immigration enforcement, we must restore SCAAP funding and reimburse Arizona for keeping criminal alien immigrants behind bars.

CONCERNS ABOUT CAP-AND-TRADE

(Mr. CHAFFETZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHAFFETZ. Mr. Speaker, I rise with deep concern about the so-called cap-and-trade. If the Democrats and President Obama get their way, we will have one of the single largest tax increases in the history of the United States imposed upon the American people at a time when we are struggling for jobs. We need to remember in this country that manufacturing is good. It is good.

Now the administration will tell you that rebates will come for those that are in the middle class, but the bill cuts off assistance for families making

Printed on recycled paper.

more than $42,000 or individuals making as little as $23,000. The Congressional Budget Office expects major increases in bureaucracy, adding some $800 million in administration costs annually for just the first 10 years.

Let us remember that the cap-and-trade is one of the largest tax increases in the history of the United States, this despite the President's promise that 95 percent of Americans would not see one dime in new taxes.

HELPING AMERICANS ACQUIRE AND RETAIN HEALTH INSURANCE

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, the House in the next few weeks is about to unveil a health reform plan that will seek to cover all Americans, reduce costs and basically improve the quality of our health care system. When I talk to my constituents, they tell me how it is increasingly difficult for them to find affordable health insurance either because their employer will not provide it or they go on the individual market, and it's simply too expensive. The current system is simply unsustainable. We want people to be able to keep their health insurance if they like it and if they can afford it, but we must provide alternatives for people that can't find health insurance or find it increasingly difficult to afford the health insurance that they want. I think this is a real priority for the American people, and it will be a priority for this Congress because we understand that the average American increasingly sees health insurance as an economic issue, something that's making it increasingly difficult for them to get through the day if they can't find an affordable plan. So I'm looking forward to this. I think it's going to be a major achievement for this Congress.

HEALTH CARE RATIONING COULD RESULT IN DEATH PENALTY IN THE UNITED KINGDOM

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, do we really want to nationalize health care and let it be run by the government? Well, here's what's going on in England with their nationalized system. Recently, a British medical ethics expert proclaimed that people who suffer from dementia have a patriotic duty to die. Baroness Warnock, the government medical adviser, says that ''the care dementia requires is very expensive and drains the government resources for health care.'' This government decision-maker says that people will ''soon be licensed to put others down if they are unable to look after themselves.'' She goes on, ''If you're demented, you're wasting people's lives, your family's lives, and you're wasting government resources.''

Mr. Speaker, when the government controls health care, it's expensive, inefficient and ultimately provides poor care. In Britain, it results in the government's rationing of services. The government picks winners and losers in the United Kingdom, and the government picks who lives and who dies. That doesn't seem to be a healthy solution for health care.

And that's just the way it is.

INTRODUCING THE RECIDIVISM REDUCTION ACT

(Mr. CARSON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. CARSON of Indiana. Mr. Speaker, yesterday I introduced the Recidivism Reduction Act, a bill that will quickly restore Federal disability and health benefits to eligible individuals after they are released from incarceration.

As a former law enforcement officer, I have seen firsthand how critical these benefits can be to successful reentry into the community. Currently, however, these benefits are regularly suspended or terminated upon incarceration and take considerable time to be reinstated after an individual is released. Without the health coverage they so desperately need, many newly released individuals cannot fully focus on securing gainful employment and developing a supportive home life. My colleagues should rest assured that this legislation will not provide new benefits to recently released individuals. Rather, it ensures that individuals receive the timely benefits they need to begin breaking the cycle of recidivism.

Join me, please, in supporting the Recidivism Reduction Act.

MIRANDA RIGHTS ON THE BATTLEFIELD

(Mr. DANIEL E. LUNGREN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, ''You have the right to remain silent. Anything you say may be used against you. You have the right to an attorney.'' Those are things that are said when arresting officers make an arrest in the United States. But now we understand that under the Obama administration, we now have something known as the concept of global justice in which we are now giving Miranda warnings to those that we have found on the battlefield whose only connection to the United States is that they wish to kill Americans.

Isn't that nonsensical? What are we going to do now? Are we going to train our enlisted men and women in the Armed Forces that when they're on the battlefield, instead of shooting, they should pull out their card with the Miranda warnings to make sure that if the person they're encountering is captured, they have to give them those rights? How about preserving the crime scene? This is nonsense.

RENEWABLE ENERGY WILL HELP THE ECONOMIC RECOVERY

(Mr. POLIS asked and was given permission to address the House for 1 minute.)

Mr. POLIS. Mr. Speaker, I rise today in support of the American Clean Energy and Security Act of 2009. I had the opportunity to visit a factory 2 weeks ago in my district. They're hiring 400 people to make solar panels. They're exporting some of those solar panels to China. When we talk about an economic recovery and getting our economy going, renewable energy is going to be one of the most important growth sectors to do that.

The American Clean Energy and Security Act will save families money. A new study shows that the average family will save $750 a year within 10 years on their power bills monthly and almost $4,000 over 20 years. The incentives and help that this bill puts in place to help families conserve energy and reduce their energy needs in their own home will not only improve our national security by ending our reliance on foreign oil, will not only address global warming and climate change but will also mean money back in the pockets of American families.

One of the most important things that we can do to recover from this recession and to grow good jobs for the middle class and for the American people is to ensure that we have continued growth in the renewable energy sector. This bill is critical. That is why hundreds of companies support this bill.

ATTACHING IRRELEVANT SPENDING TO THE IRAQ AND AFGHANISTAN SUPPLEMENTAL

(Mr. WITTMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WITTMAN. Mr. Speaker, the current debate over the Iraq and Afghanistan supplemental is a perfect example of what frustrates Americans about Washington. The folks in my district and across the country want Congress to pass a clean funding bill for the troops, plain and simple. They certainly don't want us playing politics with a bill to fund men and women currently in harm's way. Yet that is exactly what some in Congress are trying to do, using the oldest trick in the book by attaching billions of dollars in barely relevant spending to an emergency war funding bill. But it's not just the American people that we're frustrating with these political games. How must Congress look in the eyes of those that we have sent to fight on our behalf? This body should not attempt to tie troop funding to controversial programs. Furthermore, we must refrain from the temptation to squander

limited funds on objectives unrelated to the combat efforts in Afghanistan and Iraq. How do we claim to be responsible stewards of the taxpayers' money when Congress can't pass an emergency supplemental for our combat forces without loading it up like a Christmas tree?

NATIONAL ENERGY TAX

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, the Democrats' climate change ''compromise'' bill passed by the Energy and Commerce Committee is still a job killer that will hit every American with a national energy tax. This plan will have a devastating impact on the price at the pump and utility bills across the country. One estimate for a similar proposal found that families would pay more than $3,100 a year in extra energy costs.

Representative JOHN DINGELL said it best: ''Nobody in this country realizes that cap-and-trade is a tax, and it's a great big one.'' Even the President admitted that his energy plan would cause energy prices to ''necessarily skyrocket'' and that the costs will be passed on to consumers. Various estimates suggest anywhere between 1.8 and 7 million American jobs could be lost. Manufacturing jobs will relocate to countries with less stringent environmental regulations like China and India, inflicting greater harm on American families and small businesses while doing even greater damage to the environment.

The American people know we can do better. Republicans also support a clean environment and have a comprehensive energy solution that lessens our dependence on foreign oil and leads us to a stronger economy.

REMOVAL OF NAMES OF MEMBERS AS COSPONSORS OF H.R. 2300

Mr. BISHOP of Utah. Mr. Speaker, I ask unanimous consent to have all the cosponsors on H.R. 2300 withdrawn.

The names of the cosponsors are as follows:

Mr. Akin
Mr. Alexander
Mrs. Bachmann
Mr. Bonner
Mr. Boozman
Mr. Boustany
Mr. Brady of Texas
Mr. Broun of Georgia
Mr. Brown of South Carolina
Mr. Burton
Mr. Carter
Mr. Cassidy
Mr. Chaffetz
Mr. Coffman
Mr. Conaway
Mr. Culberson
Mrs. Fallin
Mr. Fleming
Mrs. Foxx
Mr. Franks
Mr. Gallegly
Mr. Gingrey
Mr. Goodlatte
Mr. Harper
Mr. Heller
Mr. Hensarling
Mr. Herger
Mr. Hoekstra
Mr. Hunter
Mrs. Jenkins
Mr. Sam Johnson of Texas
Mr. Jordan
Mr. Lamborn
Mr. Latta
Mr. Lee of New York
Mr. Linder
Mr. Lucas
Mrs. Lummis
Mr. Manzullo
Mr. Marchant
Mr. McCaul
Mr. McCotter
Mr. McHenry
Mr. McKeon
Mrs. Myrick
Mr. Neugebauer
Mr. Pence
Mr. Pitts
Mr. Poe
Mr. Price of Georgia
Mr. Radanovich
Mr. Rehberg
Mr. Ryan of Wisconsin
Mr. Scalise
Mr. Sessions
Mr. Simpson
Mr. Smith of Texas
Mr. Souder
Mr. Sullivan
Mr. Thompson of Pennsylvania
Mr. Thornberry
Mr. Wamp
Mr. Westmoreland
Mr. Young of Alaska

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 1256, FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. POLIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 532 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 532

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 1256) to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes, with the Senate amendment thereto, and to consider in the House, without intervention of any point of order except those arising under clause 10 of rule XXI, a motion offered by the chair of the Committee on Energy and Commerce or his designee that the House concur in the Senate amendment. The Senate amendment shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. The previous question shall be considered as ordered on the motion to its adoption without intervening motion.

□ 0915

The SPEAKER pro tempore. The gentleman from Colorado is recognized for 1 hour.

Mr. POLIS. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentlewoman from North Carolina, Dr. FOXX. All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Mr. POLIS. Mr. Speaker, I ask that all Members have 5 legislative days in which to revise and extend their remarks and insert extraneous material into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. POLIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 532 provides for consideration of the Senate amendment to H.R. 1256, the Family Smoking Prevention and Tobacco Control Act.

Mr. Speaker, I rise in support of the rule, House Resolution 532, and the underlying bill, the Family Smoking Prevention and Tobacco Control Act. I thank Chairman WAXMAN and my colleagues who serve on the Energy and Commerce Committee for their leadership in this bipartisan effort.

This legislation, which passed the House by a margin of more than three to one last July and again passed the House by a vote of 298–112 this past April will finally give the U.S. Food and Drug Administration the authority to regulate the advertising, marketing and manufacturing of tobacco products, and it will also allow them to take additional critical steps to protect the public health. Putting a stop to the tobacco industry from designing products that entice young people and developing programs to help adult smokers quit is the first step in prevention.

Tobacco is currently the number one cause of preventable death in America. It is responsible for about one in five deaths annually, or 443,000 deaths per year, according to the Centers for Disease Control. Smoking-related deaths account for more deaths than AIDS, alcohol, cocaine, heroin, homicide, suicide, motor vehicle crashes and fires combined. Approximately 8.6 million Americans also suffer from chronic illnesses that are related to smoking.

And yet every day, more than 3,500 youth try a cigarette for the first time and another 1,000 will become new, regular, daily smokers. One-third of these youth will eventually die prematurely as a result. America's youth face intense pressure every day from friends, fancy advertisements, and irresponsible adults to make bad decisions that will affect their long-term health and their families.

A 2006 study conducted by the Substance Abuse and Mental Health Services Administration found that 90 percent of all adult smokers began while

they were in their teens or earlier, and two-thirds of adult smokers became regular daily smokers before they reached the age of 19. A shocking number of American children are at least casual smokers before they can even drive a car.

As a cosponsor of the Family Smoking Prevention and Tobacco Control Act, I am strongly committed to seeing this figure drastically reduced, and this bill is an important step. Congress must work to help make our children's lives safer and their daily choices easier.

The history of low tar cigarettes illustrates the grave danger to public health caused by fooling consumers by making false and unsubstantiated claims that one kind of cigarette is substantially safer than another.

Millions of Americans switched to low tar cigarettes, believing they were reducing their risk of lung cancer. Many were convinced to switch instead of quit. It wasn't until decades later that we learned through the deaths of those smoking low tar cigarettes that low tar cigarettes were just as dangerous as full tar cigarettes.

Mr. Speaker, as you may recall during the last debate, I spoke of my fellow Coloradan, David Hughes, who as a teenager began smoking and then died last year at the age of 52. I had the chance to speak to his widow.

In 2002, after his first cancer diagnosis, throat cancer, he immediately quit smoking and became one of Colorado's fiercest anti-smoking advocates. His optimism and strength never went unnoticed as he volunteered for Smoke-Free Loveland. His mission was to prevent others from dying from cancer due to smoking, prevent others from making mistakes, prevent others from making the wrong choices that ultimately cost him his life.

David and so many others of our friends, our brothers, our sisters, our cousins, our relatives personify the humanity of tobacco addiction, and this is why we must ensure that protections are put in place and this bill is passed and sent to President Obama so that we can fulfill David's mission and honor the way that so many others have lived and died.

Under this legislation, by empowering the FDA to regulate tobacco products, we will not have to wait until the deaths of millions of more Americans to learn whether a so-called safer cigarette is really what it claims to be. The bottom line: we have an interest in making sure our constituents know the facts, all of them, before making potentially deadly choices.

America must also be made aware of the dramatic health risks associated with smokeless tobacco. Many still believe that chewing tobacco and snuff are safe alternatives to smoking cigarettes.

This bill will require warning labels that indicate that smokeless tobacco causes mouth and gum cancer, serious oral diseases and tooth loss.

A study by Brown University reveals that just a few weeks of chewing tobacco can develop leukoplakia of the cheeks and gums, which is the formation of leathery patches of diseased tissue on those parts of the mouth. The most shocking figure is that one in 20 of these cases of leukoplakia develop into oral cancer.

The American Dental Association, who strongly supports this legislation, calls tobacco use the number one cause of preventable disease in the United States. It should be a no-brainer to responsibly regulate such a dangerous product.

I also want to stress that the bill fully funds FDA tobacco activity through user fees on tobacco product manufacturers. All tobacco product-related FDA costs are allocated among the manufacturers of cigarettes, cigarette tobacco, and smokeless tobacco products that are sold in the United States based on the manufacturer's respective share of the United States market.

The Congressional Budget Office estimates if this bill is passed, we will reduce youth smoking by 11 percent over the next decade and adult smoking by 2 percent, a small step in the right direction; but there is much more work ahead of us.

Mr. Speaker, I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I appreciate my colleague yielding time.

This bill is being brought to the floor by the majority in a manner that is closed again, adding to the record number of closed rules in this and the last Congress. Concurring in the Senate amendment blocks the minority from offering a motion to recommit. By choosing to operate in this way, the majority has cut off the minority from having any input into the legislative process and is simply not the way we should be operating in this country.

I would now like to yield such time as he may consume to my distinguished colleague, the gentleman from North Carolina (Mr. COBLE), the dean of the North Carolina delegation.

Mr. COBLE. Mr. Speaker, I thank the gentlelady from North Carolina for the time. She and I share opposition to this proposal.

I rise in continued opposition, Mr. Speaker, to the Family Smoking Prevention and Tobacco Control Act. During my tenure in the Congress, I have consistently opposed granting the Food and Drug Administration the authority to regulate tobacco. I do so based upon my philosophical beliefs and the ramifications this legislation would have upon my congressional district and my State.

It is my firm belief, Mr. Speaker, that allowing the FDA to regulate tobacco in any capacity would inevitably lead to FDA regulating the family farm. Of course, that is the potential. This could create uncertainty for family farmers at a time when they are already struggling during the current economic downturn.

I have spoken to tobacco farmers in my district, Mr. Speaker, and if this matter is enacted, they see the door ajar, and their fear is tobacco today, the family farm tomorrow. I don't think this is a knee-jerk reaction. I think it is realistic.

I also have concerns, Mr. Speaker, regarding the negative impact the measure would have upon tobacco manufacturers and their employees, retailers, and wholesalers. Previously this Congress has voted to implement a 62-cent tobacco tax increase to fund children's health insurance. Today we consider legislation that will create further hardship for the tobacco industry and consumers who use tobacco products.

I have said this countless times before, Mr. Speaker, but I will reiterate it today: we are talking about a product that is lawfully grown, lawfully manufactured, lawfully marketed, lawfully advertised and lawfully consumed.

Mr. Speaker, H.R. 1256 remains a misguided piece of legislation. It does not achieve the goals identified by the proponent of regulating tobacco content, marketing and advertising. Indeed, it will further exacerbate an already-stretched FDA, negatively impact manufacturers and farmers and create a strain on Federal revenues to the national Treasury.

In my State and in my district and in the district of the distinguished lady from North Carolina, H.R. 1256 will result in job losses to the beleaguered tobacco manufacturing and farming interests, and it will compromise an already overburdened FDA. I cannot in good conscience support this measure.

I again thank the gentlewoman from North Carolina.

Mr. POLIS. Mr. Speaker, I yield 3 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Thank you for yielding.

Mr. Speaker, I rise in support of the rule and in strong support of H.R. 1256. I want to take this opportunity to thank Chairman WAXMAN for his many years of hard work on this legislation. We would not be here today passing this landmark bill without his and Senator KENNEDY's unwavering commitment to have tobacco regulated and their leadership.

As a physician and Chair of the Congressional Black Caucus Health Brain Trust, as well as a parent and grandparent, I give my full support to the Family Smoking Prevention and Tobacco Control Act.

Today, tobacco is the leading cause of preventable death in this country. It accounts for nearly one in five deaths each year and kills more people than AIDS, fires, cocaine, heroin, alcohol, homicide, car accidents and suicide combined. It is a major public health issue and a key driver of the country's high health care costs.

This bill empowers States and communities to prevent aggressive tobacco marketing that has the greatest negative impact in the hardest hit communities and among our most vulnerable.

It bans the additives used to manufacture flavored cigarettes which are marketed to children. And while it does not ban menthol immediately, it gives the FDA the authority to do so and sets up a commission to make a recommendation on this issue, so important to the African American community, within a year. Additionally, it speeds up the development of smoking cessation and nicotine replacement therapies, which are key to helping millions of Americans overcome nicotine addiction.

So this bill will help save millions of lives, and in doing so, it will also jump-start and complement our efforts to improve health and save millions more lives through the broader health care reform bill that will also soon be on the President's desk.

I am pleased that we are taking this bold step necessary to finally address this issue in a comprehensive and thoughtful manner, a step that has not come easy nor one that has come without controversy, but a step nonetheless worth taking.

I urge passage of the rule and H.R. 1256.

Ms. FOXX. Mr. Speaker, you know, in many cases, the titles of bills here since the Democrats have been in control have been backwards from what they do, but this bill I think does have a partially appropriate title. It is called the Family Smoking Prevention and Tobacco Control Act.

I think it is emblematic of the concern and the attempt by the majority party to control every aspect of our lives. Everything that we do in this country, they are trying to control. They think they have the answers to everything and that what they want us to do is what should be done. So the emphasis should be on control, because that is what they are trying to do, is control our lives.

We know that this legislation will have little impact on overall tobacco use. The Congressional Budget Office has estimated that if this bill is enacted, smoking by adults would decline by only 2 percent after 10 years. This marginal reduction does not warrant this legislation's significant intrusion on free speech rights and expansion of government-run regulatory bureaucracy.

I strongly oppose this bill and this rule and urge my colleagues to vote against both of them.

Mr. Speaker, I yield 15 minutes to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. I thank the gentlewoman for yielding.

Herbert Hoover in the last century referred to the Volstead Act as a noble experiment. It was grounded on the sincere desire to rid society of the ills of alcohol. It was designed to improve health, cut crime and relieve taxpayers of a portion of the burden of subsidizing prisons. The problem is we know it as Prohibition. It failed to take into account human nature and the truism that things are apt to go wrong when government tinkers too much with personal choices.

□ 0930

We are about to repeat history. There will be speeches here on the floor, I just heard one, about how this bill is going to help children, how this bill is going to improve public health. Unfortunately, the Kennedy bill that has now just come from the Senate back to the House here is not going to be able to achieve the goals which it desires.

What I will do here this morning, and as I also manage the bill itself, is bring up some of the highlights and concerns. The first highlight and concern is that Members need to do their due diligence and read the legislation that is coming to the floor. Please. There is a herd mentality that is occurring right now whereby there is blind faith that is given to leadership, and people are just voting for things. They have no idea what is truly in the legislation.

So I'm going to highlight some of the great concerns, because we need to be a responsible legislative body. A responsible legislative body is one that doesn't kick or punt the tough questions to the Supreme Court, and that's exactly what we're doing.

I'm going to address the Supreme Court in the First Amendment and Fifth Amendment issues. I'm going to address the same ''quit or die'' strategies of abstinence that are being applied to smoking. I'll also address harm reduction that should have been incorporated, claimed to be incorporated but is not. I'll also mention how this bill further burdens the FDA and its core mission while, at the same time, the majority is talking about how the FDA cannot protect the American people with regard to tainted food and adulterated and counterfeit drugs. I also would like to mention how this bill actually locks the marketplace to prevent innovation and competition. We are truly on the wave of socialism in this country.

So, first let me refer to the First Amendment. The Kennedy bill directs the Secretary of HHS to promulgate an interim final rule that is identical to the FDA's 1996 rule which legal experts from across the political spectrum have stated would violate the First Amendment. While these expert views should carry great weight, even more dispositive of the fact that the United States Supreme Court has also weighed in on various provisions of the rule, finding them already unconstitutional—they've already ruled—yet we're going to go ahead and put them right back in legislation. Not very responsible.

So before Members get down here and start pounding their chests as though they're doing great things, this is irresponsible for this body.

In Lorillard Tobacco Company v. Reilly, the United States Supreme Court struck down a Massachusetts statute that was similar in many ways to the FDA's proposed rule. The statute banned outdoor ads within 1,000 feet of schools, parks and playgrounds, and also restricted point-of-sale advertising for tobacco products. The Court held that this regulation ran afoul of the tests established in the Central Hudson case, which defines the protection afforded commercial speech under the First Amendment, as it was not sufficiently narrowly tailored and would have disparate impacts from community to community.

The Court then noted that since the Massachusetts statute was based on the FDA's rule, the FDA rule would have similar unconstitutional effects on a nationwide basis. As Justice Sandra Day O'Connor wrote for the Court, ''the uniformly broad sweep of the geographical limitation demonstrates a lack of tailoring.''

Additionally, the proposed rule in the Kennedy bill would require ads to use only black text on white background. Again, the United States Supreme Court found a similar provision unconstitutional in Zauderer v. Office of Disciplinary Counsel. In that case, dealing with advertisers for legal services, the Court held that the use of colors and illustrations in ads are entitled to the same First Amendment protections given verbal commercial free speech.

Justice Byron White, in his opinion for the Court, wrote that pictures and illustrations and ads cannot be banned ''simply on the strength of the general argument that the visual content of advertising may, under some circumstances, be deceptive or manipulative.''

There are numerous other speech restrictions in this legislation that raise serious First Amendment issues and will create a swarm of lawsuits that will only divert us from trying to develop more effective approaches to tobacco use in the United States.

To put forward speech restrictions that a broad range of experts have stated is almost certain to be struck down would be highly counterproductive, and should not be done by this legislative body. Actually, there probably will be a record time between when this bill is signed into law and when lawsuits begin to be filed in Federal court.

Now, I referred in my opening to these ''quit or die'' strategies. The ''quit or die'' strategy, the reason I call it that is this is an abstinence approach to tobacco, meaning, you either quit or, if you continue to use the product, you die. That's their abstinence approach.

The previous speaker even talked about, well, this bill is going to promote nicotine therapies, and we're going to move people toward these nicotine therapies and they'll get a chance to quit.

Nicotine therapies work for less than 7 percent of the American smokers who use them to quit smoking. Each year, approximately 20 million smokers use nicotine replacement therapies in an attempt to quit smoking.

Now, think about this. You've got over 40 million smokers. Two million try to quit, and there's a 7 percent success rate. This bill locks in the 7 percent success rate and does not allow the marketplace to exercise innovation as a gateway of smokers to smokeless-type products in a harm reduction strategy to lower in a continuum of risk.

Seven percent? So individuals are going to come here to the floor and claim that a 7 percent success rate is wonderful; 7 percent success rate is failure. Failure. Why should we, as a body, embrace failure? We should not.

This legislation, the Kennedy legislation, locks down the marketplace. It locks it down. And it says whoever has what particular market share, that's it. That's where it's going to be.

With regard to introduction of new products, oh, no, no, no, no, no. We're going to create a 2-tier standard. You have to be able to show, with regard to that product, its impact upon the individual and then the population at large. In order to do that, that is a hurdle. It is called a ''bridge too far.'' When you create a 2-tier standard that is a barrier, as an entry barrier of new products to the market, you lock down innovation. You secure competition in a present pattern, and then, with regard to these therapies, we're saying okay, this is cool, this is good. We're doing something great for public health. We're going to lock in a 7 percent success rate. Wow.

Now, Members are also going to come to the floor and say oh, this is really great. We're really going to be helping people quit smoking.

Are you kidding me?

You know what this bill does?

This bill increases the success rate, now, of quitting smoking by two-tenths of 1 percent. Two-tenths of 1 percent. You're proud of that? Two-tenths of 1 percent.

Now, let's talk about what is two-tenths of 1 percent? Well, let's go to our friends, one of our strongest allies in our transatlantic alliance, Great Britain. The Royal College of Physicians, also looking at this issue in their report, and they're looking also to solutions to the smoking epidemic, they write, in their review of other countries, it indicates that the best conventional tobacco control measures reducing smoking prevalence is between .5 and 1 percentage point per year. Whoa. Great Britain went out there and looked at all these other countries around the world and found that other countries that are taking aggressive measures are able to reduce smoking prevalence by .5 to 1 percentage points per year. And none of them have even taken into account what Mr. MCINTYRE and I presented to the floor for harm reduction strategies.

So, great. The rest of the world is at .5 and 1, and we're going to be at two-tenths of 1 percent, and you're going to claim that's success. We're doing great things to improve public health.

Are you kidding me? We are not. We're continuing failure. Failure. So don't come to the floor and act like someone is the champion here, because we're not. Two-tenths of 1 percent.

Mr. POLIS. Will the gentleman yield?

Mr. BUYER. I'll yield to help you with math.

Mr. POLIS. I'm asking you the source.

Mr. BUYER. It's two-tenths of 1 percent.

Mr. POLIS. Will the gentleman yield for a moment?

Mr. BUYER. Two-tenths of 1 percent, 2 percent. You think that's great.

Mr. POLIS. I'd like to yield to ask your source.

Mr. BUYER. What?

Mr. POLIS. I'd like to ask your source.

Mr. BUYER. Sure. It's the Royal College of Physicians.

Mr. POLIS. That's from another country?

Mr. BUYER. Absolutely.

Mr. POLIS. Is the gentleman aware the Congressional Budget Office estimates it will reduce youth smoking by 11 percent over the next 10 years, and adult smoking by 2 percent? Those are our own estimates.

Mr. BUYER. The Royal College of Physicians, I'm indicating, with regard to the reduction of prevalence of smoking of .5 and 1 percentage point per year of places around the world. Two percent CRS? Yeah, this is CBO. I don't know where you're getting your facts. This is CBO. Last time I checked, CBO is in the United States, you think? Yeah. CBO is in the United States.

Now, let me also move to harm reduction strategies. Here's why I'm really upset. I'm upset because what we really should be doing, if we really had an interest in improving public health, we should be migrating populations, moving populations. And when you move populations, you also want to inform people with regard to choices and the risk associated with products. We do that every day in the types of automobiles which we buy, whether you're going to wear your seatbelt. I suppose, I don't know, if you want to wear a helmet—did you wear a helmet to work when you drove your car today? I guess that's a choice you could make. People make harm reduction choices every day. In the foods we eat, what we drink, whatever we consume, we make these decisions every day. But how come we don't apply harm reduction strategies to tobacco? We should.

So, in the marketplace right now, there are many types of products. Now, what is unique about what's happening here is that this legislation doesn't even touch that which is most harmful, which are cigars and pipes. Cigars and pipes, you can directly ingest these toxins and carcinogens in a far greater strength into the body, and it is more harmful. But that's not even touched in this legislation.

So let's just talk about what's touched. If you look at the continuum of risk and the choice of available products that are out there today, the most harmful, which would be under this bill, are the non-filtered cigarettes. That's why I put them at the 100 percent.

Next is if you actually put a filter on that cigarette. We're beginning to reduce the harm.

Then you've got tobacco-heated cigarettes. But we don't understand all the science about the tobacco-heated cigarettes.

Then you have an electronic cigarette, whereby it's a nicotine delivery device. Yet we know that when you don't ingest the smoke, that you have a less harmful product.

Then there are the U.S. smokeless products. Now we can reduce the risk by 90 percent and say to an individual that you can obtain your nicotine you want, but guess what? You can reduce the harm by 90 percent. But these are still all harmful products.

Then you can go to a Swedish snus, and now you can reduce almost 98 percent of the risk. The difference here is one is fermented, and the other is pasteurized.

Then you can go to dissolvable tobacco products that have no nitrosamines. And then you can go to almost a 99.5 percent reduction of the risk. So you can actually get your nicotine by either an orb or a strip you lay on your tongue, or you can have a stick that kind of looks like a toothpick and you can roll it and you can obtain your nicotine, and you can remove 99 percent of the health risk. Ninety-nine percent.

But this legislation is going to say no to these types of innovations. No; that somehow we're going to lock into that which is the most harmful, instead of permitting a migration.

Now, what we want is, as individuals migrate, and you've got then the therapeutics and medicinal types of nicotine, what you really want is them to quit. And when you migrate them, you migrate them to eventually quit smoking.

□ 0945

The SPEAKER pro tempore. The time of the gentleman has expired.

Ms. FOXX. I yield the gentleman another 1 minute.

Mr. BUYER. What we have in the bill is abstinence. It mentions harm reduction, but because there is a two-tiered approach to the approval process for the introduction of new tobacco products, it is truly an entry barrier, so we've locked down the marketplace. When you lock down the marketplace, you do not improve public health in this country, and that is the greatest concern that I have here today.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded to address their remarks to the Chair.

Mr. POLIS. Mr. Speaker, currently a head of lettuce receives more regulation than tobacco products. I would

simply ask: Which is more dangerous to the American people? I would like to quote from The New York Times today, which endorsed, through an editorial, this bill, and it has been supported in the past as well.

''It has now been proved beyond a shadow of a doubt that cigarette makers have spent decades making false statements, suppressing evidence of harm, and manipulating the design of cigarettes to increase their addictiveness. Federal regulators should be able to stop many of these abuses—and we hope help prevent more Americans from losing their lives to smoking.''

This bill is the first step.

Mr. Speaker, I would like to yield 3 minutes to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Thank you, I thank my colleague from the Rules Committee for allowing me to speak for 3 minutes.

Mr. Speaker, I respectfully disagree with my colleague and member of the Energy and Commerce Committee from Indiana. I rise in strong support of H.R. 1256, the Family Smoking Prevention and Tobacco Control Act. I am an original cosponsor of the bill, and I am pleased that we will finally send this piece of legislation to the President. Again, I respectfully disagree with some of the statements earlier.

For many years, Congress has tried to address tobacco use and the impact it has on our country and on our people. Nearly 21 percent of Americans smoke cigarettes, which is actually a reduction over the past few years, but almost 23 percent of high school students are smokers—23 percent.

According to the Substance Abuse and Mental Health Services Administration, every day, 1,140 young adults start smoking. Over 1,000 young people start smoking. Every day that these young adults start smoking, they're entering a lifelong addiction. Therefore, the number of young adults who start smoking every day is tragic, especially when you consider that cigarette smoking is a leading cause of preventable death in our country. Once you're addicted to tobacco, it's with you for life and death. Most smokers start at 13, 14 or 15 years old.

The Family Smoking Prevention and Tobacco Control Act will give the Food and Drug Administration, the FDA, the authority to regulate tobacco for the first time. As was said earlier, we don't regulate tobacco now. We're finally giving the Food and Drug Administration the authority to regulate it.

This bill is fully paid for, and the FDA activity on tobacco will be fully funded through a user fee, not through the FDA's existing budget. These new funds will not take away or affect any of the FDA's current activities. This bill will also subject all new tobacco products to premarket review. It will give the Secretary of Health and Human Services the ability to restrict the sale, distribution and promotion of tobacco products. The Secretary will be able to establish tobacco product standards and require manufacturers to provide the Secretary with a list of harmful ingredients in tobacco products. We don't even know what we're smoking today. The bill will establish new labeling requirements to tobacco products.

I believe the bill is long overdue, and I am pleased that this bill has the support of tobacco manufacturers such as Philip Morris as well as public health groups like the American Cancer Society and the Campaign for Tobacco-Free Kids. The Family Smoking Prevention and Tobacco Control Act is a step in the right direction to address the issue of smoking in our country.

I ask Members of Congress: How many loved ones and constituents do you know who have died from lung cancer caused by smoking?

This bill can help those 13-, 14- and 15-year-olds, who are growing up now, not to become addicted to tobacco. I strongly support the bill, and I urge my colleagues to support it as well.

Ms. FOXX. Mr. Speaker, I would like to point out a couple of issues.

It seems to me that, if a head of lettuce has more rules than tobacco, then I think we should reduce the regulations on lettuce. I think we're going in the wrong direction in terms of this issue.

The other thing I would like to point out is something that my colleague from Indiana pointed out. This bill focuses totally on the issue of abstinence. It's interesting to me that I've been in so many debates where the majority party completely puts aside abstinence education when it comes to sex education in the schools. They say abstinence education has absolutely no benefit, and we know the research shows the opposite. Yet, on this issue, they'd like to go totally for abstinence education.

I would now like to yield 2 minutes to my colleague, the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I would just like to bring up two points.

During my presentation, the gentleman brought up the 11 percent issue. After I gave my remarks, I immediately went to the Congressional Budget Office. It was a very clever attempt, Mr. Speaker, of the Rules Committee to try to confuse the American people, so I'll read directly from the CBO report so the record is clear.

''Based on information from academic and other researchers, CBO estimates that H.R. 1256,'' which is the Waxman bill, which is not being heard here—it is the Kennedy bill which is being referred to here—''would result in a further reduction in the number of underage tobacco users of 11 percent by 2019.''

Here is the other part, the rest of the story, that the Rules Committee did not share with the country.

''CBO also estimates that implementing H.R. 1256 would lead to a further decline in smoking by adults by about 2 percent after 10 years.'' Wow. Wow.

Now let me refer to the other. Too often, we should be careful about being cute here on the House floor. ''Cute'' means the reference with regard to lettuce, so I'll follow your logic. If you were to take that lettuce, dry it, roll it, and go ahead and smoke your lettuce, do you realize that you would end up with similar problems than if you were smoking tobacco? It's not the nicotine that kills. It's the smoke that kills. It's the inhalation of the smoke. That's what causes and is responsible for the pandemic of cancers, of heart disease, of respiratory disease, and of other factors. It's the smoke. So, as for the migration of people from smoke into smokeless and into other forms of therapies, if they want to obtain their nicotine, it's okay. Mr. WAXMAN, himself, would say, I do not want to outlaw tobacco.

Mr. POLIS. Mr. Speaker, I think that one of the differences between smoking lettuce—and I have to admit that this is the first time I've heard of smoking lettuce—and smoking tobacco is that tobacco, because of its nicotine content, is highly addictive. Again, there is evidence, undisputable evidence, that companies have deliberately increased the levels of addictive nicotine within those products and that American lives have been lost as a result.

One of the other important aspects of this bill is ending the practice of many of these tobacco products which are targeted specifically to children—barring the sale of flavored tobacco products, such as fruit and cloves and chocolate, with names that entice children, like ''Very Berry.'' This would ensure that those are properly regulated.

Mr. Speaker, I would like to yield 3 minutes to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. I thank the gentleman for yielding, and I rise in support of this rule and of the bill, as amended, by the Senate.

Mr. Speaker, as they say in the intelligence world, ''this is a slam dunk.'' I have experienced the tragedy that afflicts many tobacco users and their families. Both of my parents were chain smokers. My father, a physician, quit when I was young, but our house reeked of secondhand smoke, and my mother continued to smoke until she could no longer hold a cigarette. After long illnesses, both parents died from lung cancer. It was a nightmare and one I would spare other families. As a grandmother of three, I hope my grandkids will never smoke.

Approximately 4,000 children try a cigarette for the first time each day. By the end of this week, thousands of Americans will have died from tobacco-related diseases, and thousands more will become new, regular users. We can take a big step forward in breaking this deadly cycle by giving the FDA the authority to regulate tobacco products. That's all this bill does, and it is long overdue.

The legislation we are voting on today is the product of a decades'-long crusade by our colleague HENRY WAXMAN, by Senator EDWARD KENNEDY, by the Campaign for Tobacco-Free Kids, and by scores of public health groups. It is a big downpayment on health care reform.

Mr. Speaker, California alone spends over $9 billion annually treating tobacco-related diseases. This critical funding could be put towards our failing health care infrastructure and towards making health care more affordable for everyone. With its passage today, I hope this bill will become law promptly, and I hope that the CBO will find the way to score the savings that come from this and from other preventative health measures.

If we can do this, we can find a way to cut the cost of health care reform, of national health care reform, which is urgently needed this year. So, as I see it, this is a downpayment on health care reform, and it's a downpayment on the health of our children and of our grandchildren. This bill will save lives and scarce resources. This bill is a slam dunk. Vote ''aye'' on the rule and on the underlying legislation.

Ms. FOXX. Mr. Speaker, I would like to yield briefly to my colleague, the gentleman from Indiana (Mr. BUYER), who has a very important point to make on this issue.

Mr. BUYER. Mr. Speaker, I would just say to my good friend from California that I am not an advocate of smoking at all. What I'm trying to do here on the floor is to help improve the public health of our Nation, and this is a bill that actually locks down the marketplace.

To the speaker, as to my reference to Ms. HARMAN, I want you to know that that is my sincere effort here. How do we improve public health?

Other nations around the world are all struggling, like we are, for good, sound public policy in how we regulate a legal product by adult users. There are restrictions with regard to access to children. Then, with regard to adult users, countries around the world are beginning to look at harm reduction and at applying those strategies to tobacco.

We had an opportunity to do that. It failed here on the floor, and I recognize that. It's probably something that's new. I welcome the opportunity to join with the gentlewoman from California, as we've worked really well together our entire time we've been here, and I would love to work with you on harm reduction strategies. I'll just read this from the American Association of Public Health Physicians. Since, Mr. Speaker, the Rules Committee doesn't want me to cite the Royal College of Physicians, I'll cite an American institution.

The American Association of Public Health Physicians found, In practical terms, the enhancement of current policies based on the premise that all tobacco products are equally risky will yield only small and barely measurable reductions in tobacco-related illness and death. The addition of a harm reduction component, however—and that's why I want to work with Ms. HARMAN—could yield a 50 to 80 percent reduction in tobacco-related illness and death over the first 10 years and a likely reduction of up to 90 percent within 20 years.

That's why I'm so passionate about a harm reduction strategy. I embrace your personal story, and that's why I am so sincere about a harm reduction.

Ms. HARMAN. Will the gentleman yield?

Mr. BUYER. I would yield to the gentlewoman.

Ms. HARMAN. I appreciate what you've said, and I do appreciate long years of collaboration on very important issues, especially affecting the military, like sexual harassment and this wave of sexual assault and rape against women. I appreciate that very much.

On this issue, sure, let's work together on a harm reduction strategy. I think this bill, which I'm for and you're obviously against, goes only partway. There is a lot more to do, and a lot of people have terrible stories like mine, and I embrace the fact that you're against smoking. I surely hope that becomes a much more prevalent practice by our young kids. That's what my purpose here is. I never want anyone else to have the kind of tragedy that I had with parents who were addicted like mine.

□ 1000

Mr. BUYER. Reclaiming my time, I will embrace that, and probably what we need to do if the President signs this bill into law, I offer to work with the gentlelady and we'll introduce a bill to incorporate harm reduction. I agreed earlier when I had spoken with Chairman WAXMAN, he recognizes that a pragmatic approach is truly incorporation of harm reduction with abstinence. And when we're talking about teenage sex or the use of tobacco, if we really, truly want a hand, four fingers and a thumb don't make a hand without a palm. So you have to use pragmatism along with new science.

And I will welcome the opportunity to work with the gentlelady.

Mr. POLIS. I want to highlight that this legislation is supported by over 1,000 public health, faith, and other organizations, including the American Cancer Society Action Network, the American Heart Association, American Dental Association, and American Lung Association. I would also like to think that the recent dialogue between the Representative from California and the Representative from Indiana, that, of course, this bill is just a start.

With regard to many strategies that need to be used and employed to reduce youth smoking, certainly the banning of targeted marketing towards youth and tobacco products that clearly have names that affect youth, creating a regulatory structure for the first time around tobacco products, are constructive steps; and I would agree with the gentleman from Indiana not mutually inconclusive steps, mutually inconsistent steps with many other things that we need to do for the common goal that we share to reducing youth smoking.

Madam Speaker, I would like to yield 1 minute to the gentleman from Illinois (Mr. QUIGLEY).

Mr. QUIGLEY. Madam Speaker, the tobacco industry has been feeding us a line. In addition to selling tobacco, the industry is now selling us a story. They would have us believe that this bill, which will allow the FDA to regulate their tobacco, will ruin their industry, shut down small farms, and hurt already-hurting farmers who just want to earn a living.

The truth is the tobacco industry has lied for decades about the addictive nature of tobacco. They have targeted our children as prime consumers of their deadly product, and they have produced and marketed a product that is the leading cause of preventible death in the United States, killing an estimated 438,000 people each year.

It is past time to empower the FDA to step up and stop the tobacco companies from continuing to make false claims about tobacco and start telling the truth. For too many years, the tobacco industry has sold us a line. They've attempted to tell us what they're selling, but in reality, the only thing they've been selling us is sickness and death.

Ms. FOXX. Madam Speaker, I want to say that Mr. BUYER has brought up again the issue that the Republicans have alternatives that are proven more effective. But those alternatives are not being properly considered by the majority party. Department of Health and Human Services Secretary Levin has noted that this legislation could be also viewed by foreign countries as a hostile trade action.

Many of the cloves and other flavored cigarettes that are banned under this bill are manufactured in foreign countries. However, this bill expressly permits production of menthol cigarettes. This could lead Indonesia or other foreign governments to file complaints at the World Trade Organization claiming discrimination against their products. Ultimately, retaliatory measures could be taken against American-made products which could lead to unnecessary trade disputes with a negative effect on economic growth.

As Mr. BUYER again pointed out earlier, most of us do not want to encourage smoking. But we oppose this bill on the basis that it is establishing a new Federal authority for the regulation of the tobacco industry in putting the FDA in charge of this. The tobacco industry should continue to be regulated at the State level. We should not expand the Federal Government to add

another layer of bureaucracy to the already overburdened Food and Drug Administration and another layer of regulation to American consumers and lives. This is not the direction we need to go, but it is the direction, again, that the administration and the majority party want to go, that is, more and more control of the lives of Americans.

And with that, Madam Speaker, I yield back.

Mr. POLIS. Madam Speaker, this bill is not a hostile trade action. Every sovereign State, every country has the full ability to regulate public health issues. Tobacco is a killer: 443,000 deaths per year. Smoking-related deaths, as I mentioned earlier, are more than the deaths caused by AIDS, alcohol, cocaine, heroin, homicide, suicide, motor vehicle crashes, and fires combined. It is a matter of national sovereignty, a concept that I know the gentlewoman from North Carolina is also a strong supporter of, that countries have the ability, in fact a duty, to regulate public health issues.

Madam Speaker, this bill specifically achieves critical public health goals. This legislation would ensure that tobacco products are not advertised or sold to children. And as I mentioned, 90 percent of adult smokers start before the age of 19.

Addiction to tobacco begins almost universally in childhood and adolescence. Tobacco companies have long taken advantage of this vulnerability by promoting their products through cartoon advertisements, free, tobacco-themed merchandise that appeals to kids, and sponsorships of sports and entertainment events.

By reinstating the FDA's 1996 rule, we will be able to ban all outdoor tobacco advertising within 1,000 feet of schools and playgrounds. Again, common sense. We will ban free giveaways of any nontobacco items with the purchase of a tobacco product that appeals to children; we restrict vending machines and self-service displays to adult-only facilities; and require retailers to verify age for all over-the-counter sales and provide for Federal enforcement and penalties for retailers who sell to minors.

Barring the sale of certain flavored tobacco products, such as fruits and chocolate, will protect the health of children who are lured to smoking by these candy-like flavors with little, if any, impact on adult enjoyment of tobacco.

The opponents of this legislation often cite the American value of individual or personal responsibility. Certainly informed adults are responsible for making their own choices and dealing with the consequences, including the choice of whether to smoke. Where we differ is our treatment of the fact that 90 percent of the Americans who smoke began as teenagers between the ages of 12 and 17. Opponents ask kids to make grave, health-related choices with incomplete information and hold those kids responsible for childhood mistakes with their lives. When 80 percent of kids smoke the most heavily advertised brands, it's easy to infer the influence of advertising on children.

Big Tobacco claims they don't market to kids. Nevertheless, they do a remarkably and suspiciously good job of getting kids to use their products. This has to change.

This legislation will also require that tobacco products marketed as safer and claims to be safer are in fact demonstrated to be safer by scientific proof. No more will consumers be duped into believing there is such a thing as healthy cigarettes, light or low tar. By imposing scientifically backed, new labeling requirements for such products, this bill will ensure that tobacco consumers not only receive accurate information about what is in such products, but also are protected from poisonous substances that are injurious to health.

Madam Speaker, I would like to inquire as to how much time remains.

The SPEAKER pro tempore (Mrs. TAUSCHER). The gentleman has 10 minutes remaining.

Mr. POLIS. Madam Speaker, I would like to yield 2 minutes to the gentleman from Virginia (Mr. CONNOLLY).

Mr. CONNOLLY of Virginia. I thank my friend from Colorado.

I rise in support of the underlying legislation, and I thank my friend from Colorado for his passion on the subject.

We know that if we can deter teenage smoking, we can deter a lifetime of health risks and health costs.

I must confess, Madam Speaker, some concern about accepting the Senate provision here. There were other provisions in the House bill that I passionately supported that protect our Federal workforce, and I specifically refer to the provision allowing the counting of sick leave for retirement and allowing those who are under the Federal Employment Retirement Service to re-employ, pick up where they left off. These are important provisions, Madam Speaker, because the Federal workforce, as we look out to the future, is going to be challenged with a brain drain.

The baby boom generation is going to be retiring. As many as 40 percent of the current workforce will be retiring over the next decade. In order to attract talent for the future Federal workforce, we need more flexible work rules; we need to provide more amenities for that workforce. I was disappointed that the Senate, on an amendment by Mr. DEMINT of South Carolina, dropped those provisions from this bill that were carefully crafted from the Committee on Oversight and Government Reform here in the House, and I hope we can revisit those issues in the future.

But the underlying bill with respect to tobacco is a very important bill. And, again, I thank Mr. POLIS from Colorado for his leadership and passion to the subject.

Mr. POLIS. I would like to thank the gentleman from Virginia for bringing up another important issue that is no longer included in this bill, and hopefully he and other of our colleagues can work to ensure that we have a competitive workforce for our Federal Government.

Madam Speaker, tobacco is the deadliest product on the market today. It kills over 400,000 Americans every year. Despite that grim statistic, tobacco companies have enjoyed a great deal of influence over public policy—indeed, a privileged state—avoiding the appropriate oversight of their dangerous business. By giving the Food and Drug Administration the authority to exercise their proper oversight duties, we strip Big Tobacco of their special privileges and power.

We owe consumers the same levels of protection with regard to tobacco use as we do with food and drink consumption, prescription and over-the-counter drugs, and even makeup and cosmetics. Why should tobacco, such an obviously harmful product, not be subject to the same scrutiny as a head of lettuce or mascara or a drink?

The FDA is more than capable of handling this new responsibility. We entrust the most sensitive regulation and oversight efforts already to the FDA: the regulation of what we put in our own bodies. We must give this agency the opportunity to succeed, providing the necessary resources to get the job done; and this bill does that.

By providing the Health and Human Services Secretary with the authority to regulate tobacco product standards and product testing based on scientific evidence, this legislation will promote and protect the Nation's public health. And as my friend and colleague and Representative from California, Ms. HARMAN, said, this is an important nexus in the health care debate in reducing costs and helping ensure that Americans are healthier.

For far too long we have not followed doctors' orders with regard to tobacco use. Science tells us a great deal about the causes of disease and the risks of certain behaviors. This legislation puts those scientific findings at the forefront of policymaking for the Department of Health and Human Services.

Mr. BUYER. Will the gentleman yield?

Mr. POLIS. Yes.

Mr. BUYER. I want to make sure the record is clear.

Earlier in your remarks you referred to the issue on spiking. Spiking was an allegation that was made in a newspaper article; the investigation had taken place. Former FDA Commissioner Kessler found that spiking allegations of nicotine were found to be false.

Mr. POLIS. Thank you for clarifying.

This bill also promotes public health by requiring the Health and Human Services Secretary to consider placing tobacco replacement product on a fast-track FDA approval process. If we want Americans to stop smoking, we must

provide them with the help they need to kick the habit. Holding up these smoking cessation aids, in an age of bureaucratic red tape, is no longer an option. I believe that that's a concept that's consistent with the harm-reduction strategy that my colleague from Indiana had discussed earlier.

By creating a special category of small tobacco product manufacturers, the bill will ensure that small businesses have the assistance they need from the FDA to comply with the new regulations. Supported by over 1,000 health and faith-based groups from across the country, including the American Cancer Association, the American Heart Association, the American Lung Association, The Campaign for Tobacco Free Kids, and the American Dental Association. This bill also preserves States rights by not preempting State tobacco laws. It's extremely important to respect that many States, including my own home State of Colorado, already recognize the dangers of smoking and the role that regulation can play and have excellent laws on the books that keep cigarettes out of the hands of children and also regulates second-hand smoke.

I'm very proud to say that my home State of Colorado is recognized as a leader in tobacco control, as demonstrated by our leadership in enacting a comprehensive smoke-free law that includes casinos. Additionally, Colorado is working on enacting a youth-access policy statewide. A senator from my district, the State senator, introduced a bill last year that required ID checks for tobacco purchases and prohibited youths from possessing tobacco products.

I would like to highlight, in conclusion, a story of a hero in the cancer awareness movement from my district, a type of heroism that, unfortunately, is all too common.

□ 1015

Susan DeWitt was a typical soccer mom from Superior, Colorado. She made a DVD video about the struggles of her family during her 8-year battle with cancer that ultimately cost her her life. She had earlier worked as a reporter in Boulder County. She had been a light smoker in her teens and continued into her twenties, and she quit in 1992, in her early thirties.

She passed away at the age of 42 from lung cancer. She created ''Through My Children's Eyes'' as a legacy, and her family founded the Susan DeWitt Foundation to continue her work.

How many more Susan DeWitts must there be in this country? This plague has touched almost all American lives. How many of us have lost a friend or relative to lung cancer and to smoking?

This bill is a critical important first step in finally creating a regulatory structure to discourage young people from ever beginning to smoke and regulating the safety of tobacco products.

Madam Speaker, I urge a ''yes'' vote on the rule and the underlying bill.

Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. WAXMAN. Madam Speaker, pursuant to House Resolution 532, I call up from the Speaker's table the bill (H.R. 1256) to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes, with a Senate amendment thereto, and I have a motion at the desk.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the Senate amendment.

The text of the Senate amendment is as follows:

Senate amendment:

Strike all after the enacting clause and insert the following:

DIVISION A—FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Family Smoking Prevention and Tobacco Control Act''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purpose.
Sec. 4. Scope and effect.
Sec. 5. Severability.
Sec. 6. Modification of deadlines for Secretarial action.

TITLE I—AUTHORITY OF THE FOOD AND DRUG ADMINISTRATION

Sec. 101. Amendment of Federal Food, Drug, and Cosmetic Act.
Sec. 102. Final rule.
Sec. 103. Conforming and other amendments to general provisions.
Sec. 104. Study on raising the minimum age to purchase tobacco products.
Sec. 105. Enforcement action plan for advertising and promotion restrictions.
Sec. 106. Studies of progress and effectiveness.

TITLE II—TOBACCO PRODUCT WARNINGS; CONSTITUENT AND SMOKE CONSTITUENT DISCLOSURE

Sec. 201. Cigarette label and advertising warnings.
Sec. 202. Authority to revise cigarette warning label statements.
Sec. 203. State regulation of cigarette advertising and promotion.
Sec. 204. Smokeless tobacco labels and advertising warnings.
Sec. 205. Authority to revise smokeless tobacco product warning label statements.
Sec. 206. Tar, nicotine, and other smoke constituent disclosure to the public.

TITLE III—PREVENTION OF ILLICIT TRADE IN TOBACCO PRODUCTS

Sec. 301. Labeling, recordkeeping, records inspection.
Sec. 302. Study and report.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The use of tobacco products by the Nation's children is a pediatric disease of considerable proportions that results in new generations of tobacco-dependent children and adults.

(2) A consensus exists within the scientific and medical communities that tobacco products are inherently dangerous and cause cancer, heart disease, and other serious adverse health effects.

(3) Nicotine is an addictive drug.

(4) Virtually all new users of tobacco products are under the minimum legal age to purchase such products.

(5) Tobacco advertising and marketing contribute significantly to the use of nicotine-containing tobacco products by adolescents.

(6) Because past efforts to restrict advertising and marketing of tobacco products have failed adequately to curb tobacco use by adolescents, comprehensive restrictions on the sale, promotion, and distribution of such products are needed.

(7) Federal and State governments have lacked the legal and regulatory authority and resources they need to address comprehensively the public health and societal problems caused by the use of tobacco products.

(8) Federal and State public health officials, the public health community, and the public at large recognize that the tobacco industry should be subject to ongoing oversight.

(9) Under article I, section 8 of the Constitution, the Congress is vested with the responsibility for regulating interstate commerce and commerce with Indian tribes.

(10) The sale, distribution, marketing, advertising, and use of tobacco products are activities in and substantially affecting interstate commerce because they are sold, marketed, advertised, and distributed in interstate commerce on a nationwide basis, and have a substantial effect on the Nation's economy.

(11) The sale, distribution, marketing, advertising, and use of such products substantially affect interstate commerce through the health care and other costs attributable to the use of tobacco products.

(12) It is in the public interest for Congress to enact legislation that provides the Food and Drug Administration with the authority to regulate tobacco products and the advertising and promotion of such products. The benefits to the American people from enacting such legislation would be significant in human and economic terms.

(13) Tobacco use is the foremost preventable cause of premature death in America. It causes over 400,000 deaths in the United States each year, and approximately 8,600,000 Americans have chronic illnesses related to smoking.

(14) Reducing the use of tobacco by minors by 50 percent would prevent well over 10,000,000 of today's children from becoming regular, daily smokers, saving over 3,000,000 of them from premature death due to tobacco-induced disease. Such a reduction in youth smoking would also result in approximately $75,000,000,000 in savings attributable to reduced health care costs.

(15) Advertising, marketing, and promotion of tobacco products have been especially directed to attract young persons to use tobacco products, and these efforts have resulted in increased use of such products by youth. Past efforts to oversee these activities have not been successful in adequately preventing such increased use.

(16) In 2005, the cigarette manufacturers spent more than $13,000,000,000 to attract new users, retain current users, increase current consumption, and generate favorable long-term attitudes toward smoking and tobacco use.

(17) Tobacco product advertising often misleadingly portrays the use of tobacco as socially acceptable and healthful to minors.

(18) Tobacco product advertising is regularly seen by persons under the age of 18, and persons

under the age of 18 are regularly exposed to tobacco product promotional efforts.

(19) Through advertisements during and sponsorship of sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(20) Children are exposed to substantial and unavoidable tobacco advertising that leads to favorable beliefs about tobacco use, plays a role in leading young people to overestimate the prevalence of tobacco use, and increases the number of young people who begin to use tobacco.

(21) The use of tobacco products in motion pictures and other mass media glamorizes its use for young people and encourages them to use tobacco products.

(22) Tobacco advertising expands the size of the tobacco market by increasing consumption of tobacco products including tobacco use by young people.

(23) Children are more influenced by tobacco marketing than adults: more than 80 percent of youth smoke three heavily marketed brands, while only 54 percent of adults, 26 and older, smoke these same brands.

(24) Tobacco company documents indicate that young people are an important and often crucial segment of the tobacco market. Children, who tend to be more price sensitive than adults, are influenced by advertising and promotion practices that result in drastically reduced cigarette prices.

(25) Comprehensive advertising restrictions will have a positive effect on the smoking rates of young people.

(26) Restrictions on advertising are necessary to prevent unrestricted tobacco advertising from undermining legislation prohibiting access to young people and providing for education about tobacco use.

(27) International experience shows that advertising regulations that are stringent and comprehensive have a greater impact on overall tobacco use and young people's use than weaker or less comprehensive ones.

(28) Text only requirements, although not as stringent as a ban, will help reduce underage use of tobacco products while preserving the informational function of advertising.

(29) It is in the public interest for Congress to adopt legislation to address the public health crisis created by actions of the tobacco industry.

(30) The final regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (61 Fed. Reg. 44615–44618) for inclusion as part 897 of title 21, Code of Federal Regulations, are consistent with the first amendment to the United States Constitution and with the standards set forth in the amendments made by this subtitle for the regulation of tobacco products by the Food and Drug Administration, and the restriction on the sale and distribution of, including access to and the advertising and promotion of, tobacco products contained in such regulations are substantially related to accomplishing the public health goals of this division.

(31) The regulations described in paragraph (30) will directly and materially advance the Federal Government's substantial interest in reducing the number of children and adolescents who use cigarettes and smokeless tobacco and in preventing the life-threatening health consequences associated with tobacco use. An overwhelming majority of Americans who use tobacco products begin using such products while they are minors and become addicted to the nicotine in those products before reaching the age of 18. Tobacco advertising and promotion play a crucial role in the decision of these minors to begin using tobacco products. Less restrictive and less comprehensive approaches have not and will not be effective in reducing the problems addressed by such regulations. The reasonable restrictions on the advertising and promotion of tobacco products contained in such regulations will lead to a significant decrease in the number of minors using and becoming addicted to those products.

(32) The regulations described in paragraph (30) impose no more extensive restrictions on communication by tobacco manufacturers and sellers than are necessary to reduce the number of children and adolescents who use cigarettes and smokeless tobacco and to prevent the life-threatening health consequences associated with tobacco use. Such regulations are narrowly tailored to restrict those advertising and promotional practices which are most likely to be seen or heard by youth and most likely to entice them into tobacco use, while affording tobacco manufacturers and sellers ample opportunity to convey information about their products to adult consumers.

(33) Tobacco dependence is a chronic disease, one that typically requires repeated interventions to achieve long-term or permanent abstinence.

(34) Because the only known safe alternative to smoking is cessation, interventions should target all smokers to help them quit completely.

(35) Tobacco products have been used to facilitate and finance criminal activities both domestically and internationally. Illicit trade of tobacco products has been linked to organized crime and terrorist groups.

(36) It is essential that the Food and Drug Administration review products sold or distributed for use to reduce risks or exposures associated with tobacco products and that it be empowered to review any advertising and labeling for such products. It is also essential that manufacturers, prior to marketing such products, be required to demonstrate that such products will meet a series of rigorous criteria, and will benefit the health of the population as a whole, taking into account both users of tobacco products and persons who do not currently use tobacco products.

(37) Unless tobacco products that purport to reduce the risks to the public of tobacco use actually reduce such risks, those products can cause substantial harm to the public health to the extent that the individuals, who would otherwise not consume tobacco products or would consume such products less, use tobacco products purporting to reduce risk. Those who use products sold or distributed as modified risk products that do not in fact reduce risk, rather than quitting or reducing their use of tobacco products, have a substantially increased likelihood of suffering disability and premature death. The costs to society of the widespread use of products sold or distributed as modified risk products that do not in fact reduce risk or that increase risk include thousands of unnecessary deaths and injuries and huge costs to our health care system.

(38) As the National Cancer Institute has found, many smokers mistakenly believe that ''low tar'' and ''light'' cigarettes cause fewer health problems than other cigarettes. As the National Cancer Institute has also found, mistaken beliefs about the health consequences of smoking ''low tar'' and ''light'' cigarettes can reduce the motivation to quit smoking entirely and thereby lead to disease and death.

(39) Recent studies have demonstrated that there has been no reduction in risk on a population-wide basis from ''low tar'' and ''light'' cigarettes, and such products may actually increase the risk of tobacco use.

(40) The dangers of products sold or distributed as modified risk tobacco products that do not in fact reduce risk are so high that there is a compelling governmental interest in ensuring that statements about modified risk tobacco products are complete, accurate, and relate to the overall disease risk of the product.

(41) As the Federal Trade Commission has found, consumers have misinterpreted advertisements in which one product is claimed to be less harmful than a comparable product, even in the presence of disclosures and advisories intended to provide clarification.

(42) Permitting manufacturers to make unsubstantiated statements concerning modified risk tobacco products, whether express or implied, even if accompanied by disclaimers would be detrimental to the public health.

(43) The only way to effectively protect the public health from the dangers of unsubstantiated modified risk tobacco products is to empower the Food and Drug Administration to require that products that tobacco manufacturers sold or distributed for risk reduction be reviewed in advance of marketing, and to require that the evidence relied on to support claims be fully verified.

(44) The Food and Drug Administration is a regulatory agency with the scientific expertise to identify harmful substances in products to which consumers are exposed, to design standards to limit exposure to those substances, to evaluate scientific studies supporting claims about the safety of products, and to evaluate the impact of labels, labeling, and advertising on consumer behavior in order to reduce the risk of harm and promote understanding of the impact of the product on health. In connection with its mandate to promote health and reduce the risk of harm, the Food and Drug Administration routinely makes decisions about whether and how products may be marketed in the United States.

(45) The Federal Trade Commission was created to protect consumers from unfair or deceptive acts or practices, and to regulate unfair methods of competition. Its focus is on those marketplace practices that deceive or mislead consumers, and those that give some competitors an unfair advantage. Its mission is to regulate activities in the marketplace. Neither the Federal Trade Commission nor any other Federal agency except the Food and Drug Administration possesses the scientific expertise needed to implement effectively all provisions of the Family Smoking Prevention and Tobacco Control Act.

(46) If manufacturers state or imply in communications directed to consumers through the media or through a label, labeling, or advertising, that a tobacco product is approved or inspected by the Food and Drug Administration or complies with Food and Drug Administration standards, consumers are likely to be confused and misled. Depending upon the particular language used and its context, such a statement could result in consumers being misled into believing that the product is endorsed by the Food and Drug Administration for use or in consumers being misled about the harmfulness of the product because of such regulation, inspection, approval, or compliance.

(47) In August 2006 a United States district court judge found that the major United States cigarette companies continue to target and market to youth. USA v. Philip Morris, USA, Inc., et al. (Civil Action No. 99–2496 (GK), August 17, 2006).

(48) In August 2006 a United States district court judge found that the major United States cigarette companies dramatically increased their advertising and promotional spending in ways that encourage youth to start smoking subsequent to the signing of the Master Settlement Agreement in 1998. USA v. Philip Morris, USA, Inc., et al. (Civil Action No. 99–2496 (GK), August 17, 2006).

(49) In August 2006 a United States district court judge found that the major United States cigarette companies have designed their cigarettes to precisely control nicotine delivery levels and provide doses of nicotine sufficient to create and sustain addiction while also concealing much of their nicotine-related research. USA v. Philip Morris, USA, Inc., et al. (Civil Action No. 99–2496 (GK), August 17, 2006).

SEC. 3. PURPOSE.

The purposes of this division are—

(1) to provide authority to the Food and Drug Administration to regulate tobacco products

under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), by recognizing it as the primary Federal regulatory authority with respect to the manufacture, marketing, and distribution of tobacco products as provided for in this division;

(2) to ensure that the Food and Drug Administration has the authority to address issues of particular concern to public health officials, especially the use of tobacco by young people and dependence on tobacco;

(3) to authorize the Food and Drug Administration to set national standards controlling the manufacture of tobacco products and the identity, public disclosure, and amount of ingredients used in such products;

(4) to provide new and flexible enforcement authority to ensure that there is effective oversight of the tobacco industry's efforts to develop, introduce, and promote less harmful tobacco products;

(5) to vest the Food and Drug Administration with the authority to regulate the levels of tar, nicotine, and other harmful components of tobacco products;

(6) in order to ensure that consumers are better informed, to require tobacco product manufacturers to disclose research which has not previously been made available, as well as research generated in the future, relating to the health and dependency effects or safety of tobacco products;

(7) to continue to permit the sale of tobacco products to adults in conjunction with measures to ensure that they are not sold or accessible to underage purchasers;

(8) to impose appropriate regulatory controls on the tobacco industry;

(9) to promote cessation to reduce disease risk and the social costs associated with tobacco-related diseases; and

(10) to strengthen legislation against illicit trade in tobacco products.

SEC. 4. SCOPE AND EFFECT.

(a) INTENDED EFFECT.—Nothing in this division (or an amendment made by this division) shall be construed to—

(1) establish a precedent with regard to any other industry, situation, circumstance, or legal action; or

(2) affect any action pending in Federal, State, or tribal court, or any agreement, consent decree, or contract of any kind.

(b) AGRICULTURAL ACTIVITIES.—The provisions of this division (or an amendment made by this division) which authorize the Secretary to take certain actions with regard to tobacco and tobacco products shall not be construed to affect any authority of the Secretary of Agriculture under existing law regarding the growing, cultivation, or curing of raw tobacco.

(c) REVENUE ACTIVITIES.—The provisions of this division (or an amendment made by this division) which authorize the Secretary to take certain actions with regard to tobacco products shall not be construed to affect any authority of the Secretary of the Treasury under chapter 52 of the Internal Revenue Code of 1986.

SEC. 5. SEVERABILITY.

If any provision of this division, of the amendments made by this division, or of the regulations promulgated under this division (or under such amendments), or the application of any such provision to any person or circumstance is held to be invalid, the remainder of this division, such amendments and such regulations, and the application of such provisions to any other person or circumstance shall not be affected and shall continue to be enforced to the fullest extent possible.

SEC. 6. MODIFICATION OF DEADLINES FOR SECRETARIAL ACTION.

(a) DELAYED COMMENCEMENT OF DATES FOR SECRETARIAL ACTION.—

(1) IN GENERAL.—Except as provided in subsection (c), with respect to any time periods specified in this division (or in an amendment made by this division) that begin on the date of enactment of this Act, within which the Secretary of Health and Human Services is required to carry out and complete specified activities, the calculation of such time periods shall commence on the date described in subsection (b).

(2) LIMITATION.—Subsection (a) shall only apply with respect to obligations of the Secretary of Health and Human Services that must be completed within a specified time period and shall not apply to the obligations of any other person or to any other provision of this division (including the amendments made by this division) that do not create such obligations of the Secretary and are not contingent on actions by the Secretary.

(b) DATE DESCRIBED.—The date described in this subsection is the first day of the first fiscal quarter following the initial 2 consecutive fiscal quarters of fiscal year 2010 for which the Secretary of Health and Human Services has collected fees under section 919 of the Federal Food, Drug, and Cosmetic Act (as added by section 101).

(c) EXCEPTION.—Subsection (a) shall not apply to any time period (or date) contained—

(1) in section 102, except that the reference to ''180 days'' in subsection (a)(1) of such section shall be deemed to be ''270 days''; and

(2) in sections 201 through 204 (or the amendments made by any such sections).

(d) ADJUSTMENT.—The Secretary of Health and Human Services may extend or reduce the duration of one or more time periods to which subsection (a) applies if the Secretary determines appropriate, except that no such period shall be extended for more than 90 days.

TITLE I—AUTHORITY OF THE FOOD AND DRUG ADMINISTRATION

SEC. 101. AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) DEFINITION OF TOBACCO PRODUCTS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

''(rr)(1) The term 'tobacco product' means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product).

''(2) The term 'tobacco product' does not mean an article that is a drug under subsection (g)(1), a device under subsection (h), or a combination product described in section 503(g).

''(3) The products described in paragraph (2) shall be subject to chapter V of this Act.

''(4) A tobacco product shall not be marketed in combination with any other article or product regulated under this Act (including a drug, biologic, food, cosmetic, medical device, or a dietary supplement).''.

(b) FDA AUTHORITY OVER TOBACCO PRODUCTS.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901 through 910 as sections 1001 through 1010; and

(3) by inserting after chapter VIII the following:

''CHAPTER IX—TOBACCO PRODUCTS

''SEC. 900. DEFINITIONS.

''In this chapter:

''(1) ADDITIVE.—The term 'additive' means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristic of any tobacco product (including any substances intended for use as a flavoring or coloring or in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding), except that such term does not include tobacco or a pesticide chemical residue in or on raw tobacco or a pesticide chemical.

''(2) BRAND.—The term 'brand' means a variety of tobacco product distinguished by the tobacco used, tar content, nicotine content, flavoring used, size, filtration, packaging, logo, registered trademark, brand name, identifiable pattern of colors, or any combination of such attributes.

''(3) CIGARETTE.—The term 'cigarette'—

''(A) means a product that—

''(i) is a tobacco product; and

''(ii) meets the definition of the term 'cigarette' in section 3(1) of the Federal Cigarette Labeling and Advertising Act; and

''(B) includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

''(4) CIGARETTE TOBACCO.—The term 'cigarette tobacco' means any product that consists of loose tobacco that is intended for use by consumers in a cigarette. Unless otherwise stated, the requirements applicable to cigarettes under this chapter shall also apply to cigarette tobacco.

''(5) COMMERCE.—The term 'commerce' has the meaning given that term by section 3(2) of the Federal Cigarette Labeling and Advertising Act.

''(6) COUNTERFEIT TOBACCO PRODUCT.—The term 'counterfeit tobacco product' means a tobacco product (or the container or labeling of such a product) that, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device, or any likeness thereof, of a tobacco product listed in a registration under section 905(i)(1).

''(7) DISTRIBUTOR.—The term 'distributor' as regards a tobacco product means any person who furthers the distribution of a tobacco product, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Common carriers are not considered distributors for purposes of this chapter.

''(8) ILLICIT TRADE.—The term 'illicit trade' means any practice or conduct prohibited by law which relates to production, shipment, receipt, possession, distribution, sale, or purchase of tobacco products including any practice or conduct intended to facilitate such activity.

''(9) INDIAN COUNTRY.—The term 'Indian country' has the meaning given such term in section 1151 of title 18, United States Code.

''(10) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given such term in section 4(e) of the Indian Self-Determination and Education Assistance Act.

''(11) LITTLE CIGAR.—The term 'little cigar' means a product that—

''(A) is a tobacco product; and

''(B) meets the definition of the term 'little cigar' in section 3(7) of the Federal Cigarette Labeling and Advertising Act.

''(12) NICOTINE.—The term 'nicotine' means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl) pyridine or C[10]H[14]N[2], including any salt or complex of nicotine.

''(13) PACKAGE.—The term 'package' means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane), in which a tobacco product is offered for sale, sold, or otherwise distributed to consumers.

''(14) RETAILER.—The term 'retailer' means any person, government, or entity who sells tobacco products to individuals for personal consumption, or who operates a facility where self-service displays of tobacco products are permitted.

''(15) ROLL-YOUR-OWN TOBACCO.—The term 'roll-your-own tobacco' means any tobacco product which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

''(16) SMALL TOBACCO PRODUCT MANUFACTURER.—The term 'small tobacco product manufacturer' means a tobacco product manufacturer

that employs fewer than 350 employees. For purposes of determining the number of employees of a manufacturer under the preceding sentence, the employees of a manufacturer are deemed to include the employees of each entity that controls, is controlled by, or is under common control with such manufacturer.

''(17) SMOKE CONSTITUENT.—The term 'smoke constituent' means any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the cigarette to the smoke or that is formed by the combustion or heating of tobacco, additives, or other component of the tobacco product.

''(18) SMOKELESS TOBACCO.—The term 'smokeless tobacco' means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

''(19) STATE; TERRITORY.—The terms 'State' and 'Territory' shall have the meanings given to such terms in section 201.

''(20) TOBACCO PRODUCT MANUFACTURER.—The term 'tobacco product manufacturer' means any person, including any repacker or relabeler, who—

''(A) manufactures, fabricates, assembles, processes, or labels a tobacco product; or

''(B) imports a finished tobacco product for sale or distribution in the United States.

''(21) TOBACCO WAREHOUSE.—

''(A) Subject to subparagraphs (B) and (C), the term 'tobacco warehouse' includes any person—

''(i) who—

''(I) removes foreign material from tobacco leaf through nothing other than a mechanical process;

''(II) humidifies tobacco leaf with nothing other than potable water in the form of steam or mist; or

''(III) de-stems, dries, and packs tobacco leaf for storage and shipment;

''(ii) who performs no other actions with respect to tobacco leaf; and

''(iii) who provides to any manufacturer to whom the person sells tobacco all information related to the person's actions described in clause (i) that is necessary for compliance with this Act.

''(B) The term 'tobacco warehouse' excludes any person who—

''(i) reconstitutes tobacco leaf;

''(ii) is a manufacturer, distributor, or retailer of a tobacco product; or

''(iii) applies any chemical, additive, or substance to the tobacco leaf other than potable water in the form of steam or mist.

''(C) The definition of the term 'tobacco warehouse' in subparagraph (A) shall not apply to the extent to which the Secretary determines, through rulemaking, that regulation under this chapter of the actions described in such subparagraph is appropriate for the protection of the public health.

''(22) UNITED STATES.—The term 'United States' means the 50 States of the United States of America and the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

"SEC. 901. FDA AUTHORITY OVER TOBACCO PRODUCTS.

''(a) IN GENERAL.—Tobacco products, including modified risk tobacco products for which an order has been issued in accordance with section 911, shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V.

''(b) APPLICABILITY.—This chapter shall apply to all cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco and to any other tobacco products that the Secretary by regulation deems to be subject to this chapter.

''(c) SCOPE.—

''(1) IN GENERAL.—Nothing in this chapter, or any policy issued or regulation promulgated thereunder, or in sections 101(a), 102, or 103 of title I, title II, or title III of the Family Smoking Prevention and Tobacco Control Act, shall be construed to affect, expand, or limit the Secretary's authority over (including the authority to determine whether products may be regulated), or the regulation of, products under this Act that are not tobacco products under chapter V or any other chapter.

''(2) LIMITATION OF AUTHORITY.—

''(A) IN GENERAL.—The provisions of this chapter shall not apply to tobacco leaf that is not in the possession of a manufacturer of tobacco products, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Food and Drug Administration have any authority to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer's capacity as a manufacturer. The exception in this subparagraph shall not apply to a producer of tobacco leaf who grows tobacco under a contract with a tobacco product manufacturer and who is not otherwise engaged in the manufacturing process.

''(C) RULE OF CONSTRUCTION.—Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer affecting production.

''(d) RULEMAKING PROCEDURES.—Each rulemaking under this chapter shall be in accordance with chapter 5 of title 5, United States Code. This subsection shall not be construed to affect the rulemaking provisions of section 102(a) of the Family Smoking Prevention and Tobacco Control Act.

''(e) CENTER FOR TOBACCO PRODUCTS.—Not later than 90 days after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish within the Food and Drug Administration the Center for Tobacco Products, which shall report to the Commissioner of Food and Drugs in the same manner as the other agency centers within the Food and Drug Administration. The Center shall be responsible for the implementation of this chapter and related matters assigned by the Commissioner.

''(f) OFFICE TO ASSIST SMALL TOBACCO PRODUCT MANUFACTURERS.—The Secretary shall establish within the Food and Drug Administration an identifiable office to provide technical and other nonfinancial assistance to small tobacco product manufacturers to assist them in complying with the requirements of this Act.

''(g) CONSULTATION PRIOR TO RULEMAKING.—Prior to promulgating rules under this chapter, the Secretary shall endeavor to consult with other Federal agencies as appropriate.

"SEC. 902. ADULTERATED TOBACCO PRODUCTS.

''A tobacco product shall be deemed to be adulterated if—

''(1) it consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise contaminated by any added poisonous or added deleterious substance that may render the product injurious to health;

''(2) it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health;

''(3) its package is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

''(4) the manufacturer or importer of the tobacco product fails to pay a user fee assessed to such manufacturer or importer pursuant to section 919 by the date specified in section 919 or by the 30th day after final agency action on a resolution of any dispute as to the amount of such fee;

''(5) it is, or purports to be or is represented as, a tobacco product which is subject to a tobacco product standard established under section 907 unless such tobacco product is in all respects in conformity with such standard;

''(6)(A) it is required by section 910(a) to have premarket review and does not have an order in effect under section 910(c)(1)(A)(i); or

''(B) it is in violation of an order under section 910(c)(1)(A);

''(7) the methods used in, or the facilities or controls used for, its manufacture, packing, or storage are not in conformity with applicable requirements under section 906(e)(1) or an applicable condition prescribed by an order under section 906(e)(2); or

''(8) it is in violation of section 911.

"SEC. 903. MISBRANDED TOBACCO PRODUCTS.

''(a) IN GENERAL.—A tobacco product shall be deemed to be misbranded—

''(1) if its labeling is false or misleading in any particular;

''(2) if in package form unless it bears a label containing—

''(A) the name and place of business of the tobacco product manufacturer, packer, or distributor;

''(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count;

''(C) an accurate statement of the percentage of the tobacco used in the product that is domestically grown tobacco and the percentage that is foreign grown tobacco; and

''(D) the statement required under section 920(a),

except that under subparagraph (B) reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary;

''(3) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, or designs in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

''(4) if it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name prominently printed in type as required by the Secretary by regulation;

''(5) if the Secretary has issued regulations requiring that its labeling bear adequate directions for use, or adequate warnings against use by children, that are necessary for the protection of users unless its labeling conforms in all respects to such regulations;

''(6) if it was manufactured, prepared, propagated, compounded, or processed in an establishment not duly registered under section 905(b), 905(c), 905(d), or 905(h), if it was not included in a list required by section 905(i), if a notice or other information respecting it was not provided as required by such section or section 905(j), or if it does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 905(e) as the Secretary by regulation requires;

''(7) if, in the case of any tobacco product distributed or offered for sale in any State—

''(A) its advertising is false or misleading in any particular; or

''(B) it is sold or distributed in violation of regulations prescribed under section 906(d);

''(8) unless, in the case of any tobacco product distributed or offered for sale in any State, the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued

by the manufacturer, packer, or distributor with respect to that tobacco product—

''(A) a true statement of the tobacco product's established name as described in paragraph (4), printed prominently; and

''(B) a brief statement of—

''(i) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

''(ii) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that such action is appropriate to protect the public health, a full description of the components of such tobacco product or the formula showing quantitatively each ingredient of such tobacco product to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing;

''(9) if it is a tobacco product subject to a tobacco product standard established under section 907, unless it bears such labeling as may be prescribed in such tobacco product standard; or

''(10) if there was a failure or refusal—

''(A) to comply with any requirement prescribed under section 904 or 908; or

''(B) to furnish any material or information required under section 909.

''(b) PRIOR APPROVAL OF LABEL STATEMENTS.—The Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product to ensure that such statements do not violate the misbranding provisions of subsection (a) and that such statements comply with other provisions of the Family Smoking Prevention and Tobacco Control Act (including the amendments made by such Act). No regulation issued under this subsection may require prior approval by the Secretary of the content of any advertisement, except for modified risk tobacco products as provided in section 911. No advertisement of a tobacco product published after the date of enactment of the Family Smoking Prevention and Tobacco Control Act shall, with respect to the language of label statements as prescribed under section 4 of the Federal Cigarette Labeling and Advertising Act and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 or the regulations issued under such sections, be subject to the provisions of sections 12 through 15 of the Federal Trade Commission Act.

"SEC. 904. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.

''(a) REQUIREMENT.—Each tobacco product manufacturer or importer, or agents thereof, shall submit to the Secretary the following information:

''(1) Not later than 6 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, a listing of all ingredients, including tobacco, substances, compounds, and additives that are, as of such date, added by the manufacturer to the tobacco, paper, filter, or other part of each tobacco product by brand and by quantity in each brand and subbrand.

''(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine in accordance with regulations promulgated by the Secretary in accordance with section 4(e) of the Federal Cigarette Labeling and Advertising Act.

''(3) Beginning 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, a listing of all constituents, including smoke constituents as applicable, identified by the Secretary as harmful or potentially harmful to health in each tobacco product, and as applicable in the smoke of each tobacco product, by brand and by quantity in each brand and subbrand. Effective beginning 3 years after such date of enactment, the manufacturer, importer, or agent shall comply with regulations promulgated under section 915 in reporting information under this paragraph, where applicable.

''(4) Beginning 6 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, all documents developed after such date of enactment that relate to health, toxicological, behavioral, or physiologic effects of current or future tobacco products, their constituents (including smoke constituents), ingredients, components, and additives.

''(b) DATA SUBMISSION.—At the request of the Secretary, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit the following:

''(1) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health, toxicological, behavioral, or physiologic effects of tobacco products and their constituents (including smoke constituents), ingredients, components, and additives.

''(2) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a reduction in risk to health from tobacco products can occur upon the employment of technology available or known to the manufacturer.

''(3) Any or all documents (including underlying scientific or financial information) relating to marketing research involving the use of tobacco products or marketing practices and the effectiveness of such practices used by tobacco manufacturers and distributors.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

''(c) TIME FOR SUBMISSION.—

''(1) IN GENERAL.—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the manufacturer of such product shall provide the information required under subsection (a).

''(2) DISCLOSURE OF ADDITIVE.—If at any time a tobacco product manufacturer adds to its tobacco products a new tobacco additive or increases the quantity of an existing tobacco additive, the manufacturer shall, except as provided in paragraph (3), at least 90 days prior to such action so advise the Secretary in writing.

''(3) DISCLOSURE OF OTHER ACTIONS.—If at any time a tobacco product manufacturer eliminates or decreases an existing additive, or adds or increases an additive that has by regulation been designated by the Secretary as an additive that is not a human or animal carcinogen, or otherwise harmful to health under intended conditions of use, the manufacturer shall within 60 days of such action so advise the Secretary in writing.

''(d) DATA LIST.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, and annually thereafter, the Secretary shall publish in a format that is understandable and not misleading to a lay person, and place on public display (in a manner determined by the Secretary) the list established under subsection (e).

''(2) CONSUMER RESEARCH.—The Secretary shall conduct periodic consumer research to ensure that the list published under paragraph (1) is not misleading to lay persons. Not later than 5 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall submit to the appropriate committees of Congress a report on the results of such research, together with recommendations on whether such publication should be continued or modified.

''(e) DATA COLLECTION.—Not later than 24 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish, and periodically revise as appropriate, a list of harmful and potentially harmful constituents, including smoke constituents, to health in each tobacco product by brand and by quantity in each brand and subbrand. The Secretary shall publish a public notice requesting the submission by interested persons of scientific and other information concerning the harmful and potentially harmful constituents in tobacco products and tobacco smoke.

"SEC. 905. ANNUAL REGISTRATION.

''(a) DEFINITIONS.—In this section:

''(1) MANUFACTURE, PREPARATION, COMPOUNDING, OR PROCESSING.—The term 'manufacture, preparation, compounding, or processing' shall include repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user.

''(2) NAME.—The term 'name' shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

''(b) REGISTRATION BY OWNERS AND OPERATORS.—On or before December 31 of each year, every person who owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products shall register with the Secretary the name, places of business, and all such establishments of that person. If enactment of the Family Smoking Prevention and Tobacco Control Act occurs in the second half of the calendar year, the Secretary shall designate a date no later than 6 months into the subsequent calendar year by which registration pursuant to this subsection shall occur.

''(c) REGISTRATION BY NEW OWNERS AND OPERATORS.—Every person upon first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in any establishment owned or operated in any State by that person shall immediately register with the Secretary that person's name, place of business, and such establishment.

''(d) REGISTRATION OF ADDED ESTABLISHMENTS.—Every person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional establishment which that person owns or operates in any State and in which that person begins the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products.

''(e) UNIFORM PRODUCT IDENTIFICATION SYSTEM.—The Secretary may by regulation prescribe a uniform system for the identification of tobacco products and may require that persons who are required to list such tobacco products under subsection (i) shall list such tobacco products in accordance with such system.

''(f) PUBLIC ACCESS TO REGISTRATION INFORMATION.—The Secretary shall make available for inspection, to any person so requesting, any registration filed under this section.

''(g) BIENNIAL INSPECTION OF REGISTERED ESTABLISHMENTS.—Every establishment registered with the Secretary under this section shall be subject to inspection under section 704 or subsection (h), and every such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by 1 or more officers or employees duly designated by the Secretary at least once in the 2-year period beginning with the date of registration of such establishment under this section and at least once in every successive 2-year period thereafter.

''(h) REGISTRATION BY FOREIGN ESTABLISHMENTS.—Any establishment within any foreign country engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products, shall register under this section under regulations promulgated by

the Secretary. Such regulations shall require such establishment to provide the information required by subsection (i) and shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether tobacco products manufactured, prepared, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).

''(i) REGISTRATION INFORMATION.—

''(1) PRODUCT LIST.—Every person who registers with the Secretary under subsection (b), (c), (d), or (h) shall, at the time of registration under any such subsection, file with the Secretary a list of all tobacco products which are being manufactured, prepared, compounded, or processed by that person for commercial distribution and which have not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

''(A) in the case of a tobacco product contained in the applicable list with respect to which a tobacco product standard has been established under section 907 or which is subject to section 910, a reference to the authority for the marketing of such tobacco product and a copy of all labeling for such tobacco product;

''(B) in the case of any other tobacco product contained in an applicable list, a copy of all consumer information and other labeling for such tobacco product, a representative sampling of advertisements for such tobacco product, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

''(C) if the registrant filing a list has determined that a tobacco product contained in such list is not subject to a tobacco product standard established under section 907, a brief statement of the basis upon which the registrant made such determination if the Secretary requests such a statement with respect to that particular tobacco product.

''(2) CONSULTATION WITH RESPECT TO FORMS.—The Secretary shall consult with the Secretary of the Treasury in developing the forms to be used for registration under this section to minimize the burden on those persons required to register with both the Secretary and the Tax and Trade Bureau of the Department of the Treasury.

''(3) BIANNUAL REPORT OF ANY CHANGE IN PRODUCT LIST.—Each person who registers with the Secretary under this section shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

''(A) A list of each tobacco product introduced by the registrant for commercial distribution which has not been included in any list previously filed by that person with the Secretary under this subparagraph or paragraph (1). A list under this subparagraph shall list a tobacco product by its established name and shall be accompanied by the other information required by paragraph (1).

''(B) If since the date the registrant last made a report under this paragraph that person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity of its established name.

''(C) If since the date the registrant reported under subparagraph (B) a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of the tobacco product with respect to which such notice of discontinuance was reported, notice of such resumption, the date of such resumption, the identity of such tobacco product by established name, and other information required by paragraph (1), unless the registrant has previously reported such resumption to the Secretary under this subparagraph.

''(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

''(j) REPORT PRECEDING INTRODUCTION OF CERTAIN SUBSTANTIALLY EQUIVALENT PRODUCTS INTO INTERSTATE COMMERCE.—

''(1) IN GENERAL.—Each person who is required to register under this section and who proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product intended for human use that was not commercially marketed (other than for test marketing) in the United States as of February 15, 2007, shall, at least 90 days prior to making such introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall prescribe)—

''(A) the basis for such person's determination that—

''(i) the tobacco product is substantially equivalent, within the meaning of section 910, to a tobacco product commercially marketed (other than for test marketing) in the United States as of February 15, 2007, or to a tobacco product that the Secretary has previously determined, pursuant to subsection (a)(3) of section 910, is substantially equivalent and that is in compliance with the requirements of this Act; or

''(ii) the tobacco product is modified within the meaning of paragraph (3), the modifications are to a product that is commercially marketed and in compliance with the requirements of this Act, and all of the modifications are covered by exemptions granted by the Secretary pursuant to paragraph (3); and

''(B) action taken by such person to comply with the requirements under section 907 that are applicable to the tobacco product.

''(2) APPLICATION TO CERTAIN POST-FEBRUARY 15, 2007, PRODUCTS.—A report under this subsection for a tobacco product that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after February 15, 2007, and prior to the date that is 21 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act shall be submitted to the Secretary not later than 21 months after such date of enactment.

''(3) EXEMPTIONS.—

''(A) IN GENERAL.—The Secretary may exempt from the requirements of this subsection relating to the demonstration that a tobacco product is substantially equivalent within the meaning of section 910, tobacco products that are modified by adding or deleting a tobacco additive, or increasing or decreasing the quantity of an existing tobacco additive, if the Secretary determines that—

''(i) such modification would be a minor modification of a tobacco product that can be sold under this Act;

''(ii) a report under this subsection is not necessary to ensure that permitting the tobacco product to be marketed would be appropriate for protection of the public health; and

''(iii) an exemption is otherwise appropriate.

''(B) REGULATIONS.—Not later than 15 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations to implement this paragraph.

"SEC. 906. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.

''(a) IN GENERAL.—Any requirement established by or under section 902, 903, 905, or 909 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 907, section 910, section 911, or subsection (d) of this section, and any requirement established by or under section 902, 903, 905, or 909 which is inconsistent with a requirement imposed on such tobacco product under section 907, section 910, section 911, or subsection (d) of this section shall not apply to such tobacco product.

''(b) INFORMATION ON PUBLIC ACCESS AND COMMENT.—Each notice of proposed rulemaking or other notification under section 907, 908, 909, 910, or 911 or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

''(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

''(2) the period within which interested persons may present their comments on the notice or findings (including the need therefore) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Secretary by a notice published in the Federal Register stating good cause therefore.

''(c) LIMITED CONFIDENTIALITY OF INFORMATION.—Any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 903, 904, 907, 908, 909, 910, 911, or 704, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this chapter, or when relevant in any proceeding under this chapter.

''(d) RESTRICTIONS.—

''(1) IN GENERAL.—The Secretary may by regulation require restrictions on the sale and distribution of a tobacco product, including restrictions on the access to, and the advertising and promotion of, the tobacco product, if the Secretary determines that such regulation would be appropriate for the protection of the public health. The Secretary may by regulation impose restrictions on the advertising and promotion of a tobacco product consistent with and to full extent permitted by the first amendment to the Constitution. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and nonusers of the tobacco product, and taking into account—

''(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

''(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

No such regulation may require that the sale or distribution of a tobacco product be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

''(2) LABEL STATEMENTS.—The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may in such regulation prescribe.

''(3) LIMITATIONS.—

''(A) IN GENERAL.—No restrictions under paragraph (1) may—

''(i) prohibit the sale of any tobacco product in face-to-face transactions by a specific category of retail outlets; or

''(ii) establish a minimum age of sale of tobacco products to any person older than 18 years of age.

''(B) MATCHBOOKS.—For purposes of any regulations issued by the Secretary, matchbooks of conventional size containing not more than 20 paper matches, and which are customarily given away for free with the purchase of tobacco products, shall be considered as adult-written publications which shall be permitted to contain advertising. Notwithstanding the preceding sentence, if the Secretary finds that such treatment of matchbooks is not appropriate for the protection of the public health, the Secretary may determine by regulation that matchbooks shall not be considered adult-written publications.

''(4) REMOTE SALES.—

''(A) IN GENERAL.—The Secretary shall—

''(i) within 18 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, promulgate regulations regarding the sale and distribution of tobacco products that occur through means other than a direct, face-to-face exchange between a retailer and a consumer in order to prevent the sale and distribution of tobacco products to individuals who have not attained the minimum age established by applicable law for the purchase of such products, including requirements for age verification; and

''(ii) within 2 years after such date of enactment, issue regulations to address the promotion and marketing of tobacco products that are sold or distributed through means other than a direct, face-to-face exchange between a retailer and a consumer in order to protect individuals who have not attained the minimum age established by applicable law for the purchase of such products.

''(B) RELATION TO OTHER AUTHORITY.—Nothing in this paragraph limits the authority of the Secretary to take additional actions under the other paragraphs of this subsection.

''(e) GOOD MANUFACTURING PRACTICE REQUIREMENTS.—

''(1) METHODS, FACILITIES, AND CONTROLS TO CONFORM.—

''(A) IN GENERAL.—In applying manufacturing restrictions to tobacco, the Secretary shall, in accordance with subparagraph (B), prescribe regulations (which may differ based on the type of tobacco product involved) requiring that the methods used in, and the facilities and controls used for, the manufacture, preproduction design validation (including a process to assess the performance of a tobacco product), packing, and storage of a tobacco product conform to current good manufacturing practice, or hazard analysis and critical control point methodology, as prescribed in such regulations to assure that the public health is protected and that the tobacco product is in compliance with this chapter. Such regulations may provide for the testing of raw tobacco for pesticide chemical residues regardless of whether a tolerance for such chemical residues has been established.

''(B) REQUIREMENTS.—The Secretary shall—

''(i) before promulgating any regulation under subparagraph (A), afford the Tobacco Products Scientific Advisory Committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

''(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

''(iii) provide the Tobacco Products Scientific Advisory Committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A);

''(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities, and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices; and

''(v) not require any small tobacco product manufacturer to comply with a regulation under subparagraph (A) for at least 4 years following the effective date established by the Secretary for such regulation.

''(2) EXEMPTIONS; VARIANCES.—

''(A) PETITION.—Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

''(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this chapter;

''(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

''(iii) contain such other information as the Secretary shall prescribe.

''(B) REFERRAL TO THE TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—The Secretary may refer to the Tobacco Products Scientific Advisory Committee any petition submitted under subparagraph (A). The Tobacco Products Scientific Advisory Committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days after the date of the petition's referral. Within 60 days after—

''(i) the date the petition was submitted to the Secretary under subparagraph (A); or

''(ii) the day after the petition was referred to the Tobacco Products Scientific Advisory Committee,

whichever occurs later, the Secretary shall by order either deny the petition or approve it.

''(C) APPROVAL.—The Secretary may approve—

''(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this chapter; and

''(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this chapter.

''(D) CONDITIONS.—An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this chapter.

''(E) HEARING.—After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

''(3) COMPLIANCE.—Compliance with requirements under this subsection shall not be required before the end of the 3-year period following the date of enactment of the Family Smoking Prevention and Tobacco Control Act.

''(f) RESEARCH AND DEVELOPMENT.—The Secretary may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes.

''SEC. 907. TOBACCO PRODUCT STANDARDS.

''(a) IN GENERAL.—

''(1) SPECIAL RULES.—

''(A) SPECIAL RULE FOR CIGARETTES.—Beginning 3 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, a cigarette or any of its component parts (including the tobacco, filter, or paper) shall not contain, as a constituent (including a smoke constituent) or additive, an artificial or natural flavor (other than tobacco or menthol) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a characterizing flavor of the tobacco product or tobacco smoke. Nothing in this subparagraph shall be construed to limit the Secretary's authority to take action under this section or other sections of this Act applicable to menthol or any artificial or natural flavor, herb, or spice not specified in this subparagraph.

''(B) ADDITIONAL SPECIAL RULE.—Beginning 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, a tobacco product manufacturer shall not use tobacco, including foreign grown tobacco, that contains a pesticide chemical residue that is at a level greater than is specified by any tolerance applicable under Federal law to domestically grown tobacco.

''(2) REVISION OF TOBACCO PRODUCT STANDARDS.—The Secretary may revise the tobacco product standards in paragraph (1) in accordance with subsection (c).

''(3) TOBACCO PRODUCT STANDARDS.—

''(A) IN GENERAL.—The Secretary may adopt tobacco product standards in addition to those in paragraph (1) if the Secretary finds that a tobacco product standard is appropriate for the protection of the public health.

''(B) DETERMINATIONS.—

''(i) CONSIDERATIONS.—In making a finding described in subparagraph (A), the Secretary shall consider scientific evidence concerning—

''(I) the risks and benefits to the population as a whole, including users and nonusers of tobacco products, of the proposed standard;

''(II) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

''(III) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

''(ii) ADDITIONAL CONSIDERATIONS.—In the event that the Secretary makes a determination, set forth in a proposed tobacco product standard in a proposed rule, that it is appropriate for the protection of public health to require the reduction or elimination of an additive, constituent (including a smoke constituent), or other component of a tobacco product because the Secretary has found that the additive, constituent, or other component is or may be harmful, any party objecting to the proposed standard on the ground that the proposed standard will not reduce or eliminate the risk of illness or injury may provide for the Secretary's consideration scientific evidence that demonstrates that the proposed standard will not reduce or eliminate the risk of illness or injury.

''(4) CONTENT OF TOBACCO PRODUCT STANDARDS.—A tobacco product standard established under this section for a tobacco product—

''(A) shall include provisions that are appropriate for the protection of the public health, including provisions, where appropriate—

''(i) for nicotine yields of the product;

''(ii) for the reduction or elimination of other constituents, including smoke constituents, or harmful components of the product; or

''(iii) relating to any other requirement under subparagraph (B);

''(B) shall, where appropriate for the protection of the public health, include—

''(i) provisions respecting the construction, components, ingredients, additives, constituents, including smoke constituents, and properties of the tobacco product;

''(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

''(iii) provisions for the measurement of the tobacco product characteristics of the tobacco product;

''(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

''(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d);

''(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper use of the tobacco product; and

''(D) shall require tobacco products containing foreign-grown tobacco to meet the same standards applicable to tobacco products containing domestically grown tobacco.

''(5) PERIODIC REEVALUATION OF TOBACCO PRODUCT STANDARDS.—The Secretary shall provide for periodic evaluation of tobacco product standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data. The Secretary may provide for testing under paragraph (4)(B) by any person.

''(6) INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.—In carrying out duties under this section, the Secretary shall endeavor to—

''(A) use personnel, facilities, and other technical support available in other Federal agencies;

''(B) consult with other Federal agencies concerned with standard setting and other nationally or internationally recognized standard-setting entities; and

''(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, agricultural, or consumer organizations who in the Secretary's judgment can make a significant contribution.

''(b) CONSIDERATIONS BY SECRETARY.—

''(1) TECHNICAL ACHIEVABILITY.—The Secretary shall consider information submitted in connection with a proposed standard regarding the technical achievability of compliance with such standard.

''(2) OTHER CONSIDERATIONS.—The Secretary shall consider all other information submitted in connection with a proposed standard, including information concerning the countervailing effects of the tobacco product standard on the health of adolescent tobacco users, adult tobacco users, or nontobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand.

''(c) PROPOSED STANDARDS.—

''(1) IN GENERAL.—The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any tobacco product standard.

''(2) REQUIREMENTS OF NOTICE.—A notice of proposed rulemaking for the establishment or amendment of a tobacco product standard for a tobacco product shall—

''(A) set forth a finding with supporting justification that the tobacco product standard is appropriate for the protection of the public health;

''(B) invite interested persons to submit a draft or proposed tobacco product standard for consideration by the Secretary;

''(C) invite interested persons to submit comments on structuring the standard so that it does not advantage foreign-grown tobacco over domestically grown tobacco; and

''(D) invite the Secretary of Agriculture to provide any information or analysis which the Secretary of Agriculture believes is relevant to the proposed tobacco product standard.

''(3) FINDING.—A notice of proposed rulemaking for the revocation of a tobacco product standard shall set forth a finding with supporting justification that the tobacco product standard is no longer appropriate for the protection of the public health.

''(4) COMMENT.—The Secretary shall provide for a comment period of not less than 60 days.

''(d) PROMULGATION.—

''(1) IN GENERAL.—After the expiration of the period for comment on a notice of proposed rulemaking published under subsection (c) respecting a tobacco product standard and after consideration of comments submitted under subsections (b) and (c) and any report from the Tobacco Products Scientific Advisory Committee, the Secretary shall—

''(A) if the Secretary determines that the standard would be appropriate for the protection of the public health, promulgate a regulation establishing a tobacco product standard and publish in the Federal Register findings on the matters referred to in subsection (c); or

''(B) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

''(2) EFFECTIVE DATE.—A regulation establishing a tobacco product standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before 1 year after the date of its publication unless the Secretary determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade. In establishing such effective date or dates, the Secretary shall consider information submitted in connection with a proposed product standard by interested parties, including manufacturers and tobacco growers, regarding the technical achievability of compliance with the standard, and including information concerning the existence of patents that make it impossible to comply in the timeframe envisioned in the proposed standard. If the Secretary determines, based on the Secretary's evaluation of submitted comments, that a product standard can be met only by manufacturers requiring substantial changes to the methods of farming the domestically grown tobacco used by the manufacturer, the effective date of that product standard shall be not less than 2 years after the date of publication of the final regulation establishing the standard.

''(3) LIMITATION ON POWER GRANTED TO THE FOOD AND DRUG ADMINISTRATION.—Because of the importance of a decision of the Secretary to issue a regulation—

''(A) banning all cigarettes, all smokeless tobacco products, all little cigars, all cigars other than little cigars, all pipe tobacco, or all roll-your-own tobacco products; or

''(B) requiring the reduction of nicotine yields of a tobacco product to zero,

the Secretary is prohibited from taking such actions under this Act.

''(4) AMENDMENT; REVOCATION.—

''(A) AUTHORITY.—The Secretary, upon the Secretary's own initiative or upon petition of an interested person, may by a regulation, promulgated in accordance with the requirements of subsection (c) and paragraph (2), amend or revoke a tobacco product standard.

''(B) EFFECTIVE DATE.—The Secretary may declare a proposed amendment of a tobacco product standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Secretary determines that making it so effective is in the public interest.

''(5) REFERRAL TO ADVISORY COMMITTEE.—

''(A) IN GENERAL.—The Secretary may refer a proposed regulation for the establishment, amendment, or revocation of a tobacco product standard to the Tobacco Products Scientific Advisory Committee for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment.

''(B) INITIATION OF REFERRAL.—The Secretary may make a referral under this paragraph—

''(i) on the Secretary's own initiative; or

''(ii) upon the request of an interested person that—

''(I) demonstrates good cause for the referral; and

''(II) is made before the expiration of the period for submission of comments on the proposed regulation.

''(C) PROVISION OF DATA.—If a proposed regulation is referred under this paragraph to the Tobacco Products Scientific Advisory Committee, the Secretary shall provide the Advisory Committee with the data and information on which such proposed regulation is based.

''(D) REPORT AND RECOMMENDATION.—The Tobacco Products Scientific Advisory Committee shall, within 60 days after the referral of a proposed regulation under this paragraph and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation.

''(E) PUBLIC AVAILABILITY.—The Secretary shall make a copy of each report and recommendation under subparagraph (D) publicly available.

''(e) MENTHOL CIGARETTES.—

''(1) REFERRAL; CONSIDERATIONS.—Immediately upon the establishment of the Tobacco Products Scientific Advisory Committee under section 917(a), the Secretary shall refer to the Committee for report and recommendation, under section 917(c)(4), the issue of the impact of the use of menthol in cigarettes on the public health, including such use among children, African-Americans, Hispanics, and other racial and ethnic minorities. In its review, the Tobacco Products Scientific Advisory Committee shall address the considerations listed in subsections (a)(3)(B)(i) and (b).

''(2) REPORT AND RECOMMENDATION.—Not later than 1 year after its establishment, the Tobacco Product Scientific Advisory Committee shall submit to the Secretary the report and recommendations required pursuant to paragraph (1).

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the Secretary's authority to take action under this section or other sections of this Act applicable to menthol.

''(f) DISSOLVABLE TOBACCO PRODUCTS.—

''(1) REFERRAL; CONSIDERATIONS.—The Secretary shall refer to the Tobacco Products Scientific Advisory Committee for report and recommendation, under section 917(c)(4), the issue of the nature and impact of the use of dissolvable tobacco products on the public health, including such use among children. In its review, the Tobacco Products Scientific Advisory Committee shall address the considerations listed in subsection (a)(3)(B)(i).

''(2) REPORT AND RECOMMENDATION.—Not later than 2 years after its establishment, the Tobacco Product Scientific Advisory Committee shall submit to the Secretary the report and recommendations required pursuant to paragraph (1).

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the Secretary's authority to take action under this section or other sections of this Act at any time applicable to any dissolvable tobacco product.

"SEC. 908. NOTIFICATION AND OTHER REMEDIES.

''(a) NOTIFICATION.—If the Secretary determines that—

''(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health; and

''(2) notification under this subsection is necessary to eliminate the unreasonable risk of

such harm and no more practicable means is available under the provisions of this chapter (other than this section) to eliminate such risk, the Secretary may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification in order to eliminate such risk. The Secretary may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Secretary shall consult with the persons who are to give notice under the order.

''(b) NO EXEMPTION FROM OTHER LIABILITY.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

''(c) RECALL AUTHORITY.—

''(1) IN GENERAL.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

''(2) AMENDMENT OF ORDER TO REQUIRE RECALL.—

''(A) IN GENERAL.—If, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall, except as provided in subparagraph (B), amend the order to require a recall. The Secretary shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

''(B) NOTICE.—An amended order under subparagraph (A)—

''(i) shall not include recall of a tobacco product from individuals; and

''(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.

In providing the notice required by clause (ii), the Secretary may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Secretary shall notify such persons under section 705(b).

''(3) REMEDY NOT EXCLUSIVE.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a).

"SEC. 909. RECORDS AND REPORTS ON TOBACCO PRODUCTS.

''(a) IN GENERAL.—Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information, as the Secretary may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded and to otherwise protect public health. Regulations prescribed under the preceding sentence—

''(1) may require a tobacco product manufacturer or importer to report to the Secretary whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

''(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

''(3) shall not impose requirements unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with such requirements and the need for the protection of the public health and the implementation of this chapter;

''(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under such regulations for submission of a report or information to the Secretary state the reason or purpose for such request and identify to the fullest extent practicable such report or information;

''(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of such report or information and identify to the fullest extent practicable such report or information; and

''(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless required for the medical welfare of an individual, to determine risks to public health of a tobacco product, or to verify a record, report, or information submitted under this chapter.

In prescribing regulations under this subsection, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients. The prohibitions of paragraph (6) continue to apply to records, reports, and information concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

''(b) REPORTS OF REMOVALS AND CORRECTIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken or removal from the market of a tobacco product undertaken by such manufacturer or importer if the removal or correction was undertaken—

''(A) to reduce a risk to health posed by the tobacco product; or

''(B) to remedy a violation of this chapter caused by the tobacco product which may present a risk to health.

A tobacco product manufacturer or importer of a tobacco product who undertakes a corrective action or removal from the market of a tobacco product which is not required to be reported under this subsection shall keep a record of such correction or removal.

''(2) EXCEPTION.—No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a).

"SEC. 910. APPLICATION FOR REVIEW OF CERTAIN TOBACCO PRODUCTS.

''(a) IN GENERAL.—

''(1) NEW TOBACCO PRODUCT DEFINED.—For purposes of this section the term 'new tobacco product' means—

''(A) any tobacco product (including those products in test markets) that was not commercially marketed in the United States as of February 15, 2007; or

''(B) any modification (including a change in design, any component, any part, or any constituent, including a smoke constituent, or in the content, delivery or form of nicotine, or any other additive or ingredient) of a tobacco product where the modified product was commercially marketed in the United States after February 15, 2007.

''(2) PREMARKET REVIEW REQUIRED.—

''(A) NEW PRODUCTS.—An order under subsection (c)(1)(A)(i) for a new tobacco product is required unless—

''(i) the manufacturer has submitted a report under section 905(j); and the Secretary has issued an order that the tobacco product—

''(I) is substantially equivalent to a tobacco product commercially marketed (other than for test marketing) in the United States as of February 15, 2007; and

''(II) is in compliance with the requirements of this Act; or

''(ii) the tobacco product is exempt from the requirements of section 905(j) pursuant to a regulation issued under section 905(j)(3).

''(B) APPLICATION TO CERTAIN POST-FEBRUARY 15, 2007, PRODUCTS.—Subparagraph (A) shall not apply to a tobacco product—

''(i) that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after February 15, 2007, and prior to the date that is 21 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act; and

''(ii) for which a report was submitted under section 905(j) within such 21-month period,

except that subparagraph (A) shall apply to the tobacco product if the Secretary issues an order that the tobacco product is not substantially equivalent.

''(3) SUBSTANTIALLY EQUIVALENT DEFINED.—

''(A) IN GENERAL.—In this section and section 905(j), the term 'substantially equivalent' or 'substantial equivalence' means, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has found that the tobacco product—

''(i) has the same characteristics as the predicate tobacco product; or

''(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health.

''(B) CHARACTERISTICS.—In subparagraph (A), the term 'characteristics' means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

''(C) LIMITATION.—A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

''(4) HEALTH INFORMATION.—

''(A) SUMMARY.—As part of a submission under section 905(j) respecting a tobacco product, the person required to file a premarket notification under such section shall provide an adequate summary of any health information related to the tobacco product or state that such information will be made available upon request by any person.

''(B) REQUIRED INFORMATION.—Any summary under subparagraph (A) respecting a tobacco product shall contain detailed information regarding data concerning adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that such tobacco product is substantially equivalent to another tobacco product.

''(b) APPLICATION.—

''(1) CONTENTS.—An application under this section shall contain—

''(A) full reports of all information, published or known to, or which should reasonably be known to, the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such

tobacco product presents less risk than other tobacco products;

''(B) a full statement of the components, ingredients, additives, and properties, and of the principle or principles of operation, of such tobacco product;

''(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;

''(D) an identifying reference to any tobacco product standard under section 907 which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such tobacco product standard or adequate information to justify any deviation from such standard;

''(E) such samples of such tobacco product and of components thereof as the Secretary may reasonably require;

''(F) specimens of the labeling proposed to be used for such tobacco product; and

''(G) such other information relevant to the subject matter of the application as the Secretary may require.

''(2) REFERRAL TO TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

''(A) may, on the Secretary's own initiative; or

''(B) may, upon the request of an applicant, refer such application to the Tobacco Products Scientific Advisory Committee for reference and for submission (within such period as the Secretary may establish) of a report and recommendation respecting the application, together with all underlying data and the reasons or basis for the recommendation.

''(c) ACTION ON APPLICATION.—

''(1) DEADLINE.—

''(A) IN GENERAL.—As promptly as possible, but in no event later than 180 days after the receipt of an application under subsection (b), the Secretary, after considering the report and recommendation submitted under subsection (b)(2), shall—

''(i) issue an order that the new product may be introduced or delivered for introduction into interstate commerce if the Secretary finds that none of the grounds specified in paragraph (2) of this subsection applies; or

''(ii) issue an order that the new product may not be introduced or delivered for introduction into interstate commerce if the Secretary finds (and sets forth the basis for such finding as part of or accompanying such denial) that 1 or more grounds for denial specified in paragraph (2) of this subsection apply.

''(B) RESTRICTIONS ON SALE AND DISTRIBUTION.—An order under subparagraph (A)(i) may require that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d).

''(2) DENIAL OF APPLICATION.—The Secretary shall deny an application submitted under subsection (b) if, upon the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such tobacco product, the Secretary finds that—

''(A) there is a lack of a showing that permitting such tobacco product to be marketed would be appropriate for the protection of the public health;

''(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of such tobacco product do not conform to the requirements of section 906(e);

''(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

''(D) such tobacco product is not shown to conform in all respects to a tobacco product standard in effect under section 907, and there is a lack of adequate information to justify the deviation from such standard.

''(3) DENIAL INFORMATION.—Any denial of an application shall, insofar as the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to remove such application from deniable form (which measures may include further research by the applicant in accordance with 1 or more protocols prescribed by the Secretary).

''(4) BASIS FOR FINDING.—For purposes of this section, the finding as to whether the marketing of a tobacco product for which an application has been submitted is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and nonusers of the tobacco product, and taking into account—

''(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

''(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

''(5) BASIS FOR ACTION.—

''(A) INVESTIGATIONS.—For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include 1 or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

''(B) OTHER EVIDENCE.—If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) which is sufficient to evaluate the tobacco product, the Secretary may authorize that the determination for purposes of paragraph (2)(A) be made on the basis of such evidence.

''(d) WITHDRAWAL AND TEMPORARY SUSPENSION.—

''(1) IN GENERAL.—The Secretary shall, upon obtaining, where appropriate, advice on scientific matters from the Tobacco Products Scientific Advisory Committee, and after due notice and opportunity for informal hearing for a tobacco product for which an order was issued under subsection (c)(1)(A)(i), issue an order withdrawing the order if the Secretary finds—

''(A) that the continued marketing of such tobacco product no longer is appropriate for the protection of the public health;

''(B) that the application contained or was accompanied by an untrue statement of a material fact;

''(C) that the applicant—

''(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 909;

''(ii) has refused to permit access to, or copying or verification of, such records as required by section 704; or

''(iii) has not complied with the requirements of section 905;

''(D) on the basis of new information before the Secretary with respect to such tobacco product, evaluated together with the evidence before the Secretary when the application was reviewed, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such tobacco product do not conform with the requirements of section 906(e) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

''(E) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was reviewed, that the labeling of such tobacco product, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary of such fact; or

''(F) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such order was issued, that such tobacco product is not shown to conform in all respects to a tobacco product standard which is in effect under section 907, compliance with which was a condition to the issuance of an order relating to the application, and that there is a lack of adequate information to justify the deviation from such standard.

''(2) APPEAL.—The holder of an application subject to an order issued under paragraph (1) withdrawing an order issued pursuant to subsection (c)(1)(A)(i) may, by petition filed on or before the 30th day after the date upon which such holder receives notice of such withdrawal, obtain review thereof in accordance with section 912.

''(3) TEMPORARY SUSPENSION.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an order would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the authority of the manufacturer to market the product. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.

''(e) SERVICE OF ORDER.—An order issued by the Secretary under this section shall be served—

''(1) in person by any officer or employee of the department designated by the Secretary; or

''(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

''(f) RECORDS.—

''(1) ADDITIONAL INFORMATION.—In the case of any tobacco product for which an order issued pursuant to subsection (c)(1)(A)(i) for an application filed under subsection (b) is in effect, the applicant shall establish and maintain such records, and make such reports to the Secretary, as the Secretary may by regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination of, whether there is or may be grounds for withdrawing or temporarily suspending such order.

''(2) ACCESS TO RECORDS.—Each person required under this section to maintain records, and each person in charge of custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

''(g) INVESTIGATIONAL TOBACCO PRODUCT EXEMPTION FOR INVESTIGATIONAL USE.—The Secretary may exempt tobacco products intended for investigational use from the provisions of this chapter under such conditions as the Secretary may by regulation prescribe.

"SEC. 911. MODIFIED RISK TOBACCO PRODUCTS.

''(a) IN GENERAL.—No person may introduce or deliver for introduction into interstate commerce any modified risk tobacco product unless an order issued pursuant to subsection (g) is effective with respect to such product.

''(b) DEFINITIONS.—In this section:

''(1) MODIFIED RISK TOBACCO PRODUCT.—The term 'modified risk tobacco product' means any tobacco product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products.

''(2) SOLD OR DISTRIBUTED.—

''(A) IN GENERAL.—With respect to a tobacco product, the term 'sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products' means a tobacco product—

''(i) the label, labeling, or advertising of which represents explicitly or implicitly that—

''(I) the tobacco product presents a lower risk of tobacco-related disease or is less harmful than one or more other commercially marketed tobacco products;

''(II) the tobacco product or its smoke contains a reduced level of a substance or presents a reduced exposure to a substance; or

''(III) the tobacco product or its smoke does not contain or is free of a substance;

''(ii) the label, labeling, or advertising of which uses the descriptors 'light', 'mild', or 'low' or similar descriptors; or

''(iii) the tobacco product manufacturer of which has taken any action directed to consumers through the media or otherwise, other than by means of the tobacco product's label, labeling, or advertising, after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, respecting the product that would be reasonably expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to, or does not contain or is free of, a substance or substances.

''(B) LIMITATION.—No tobacco product shall be considered to be 'sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products', except as described in subparagraph (A).

''(C) SMOKELESS TOBACCO PRODUCT.—No smokeless tobacco product shall be considered to be 'sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products' solely because its label, labeling, or advertising uses the following phrases to describe such product and its use: 'smokeless tobacco', 'smokeless tobacco product', 'not consumed by smoking', 'does not produce smoke', 'smokefree', 'smoke-free', 'without smoke', 'no smoke', or 'not smoke'.

''(3) EFFECTIVE DATE.—The provisions of paragraph (2)(A)(ii) shall take effect 12 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act for those products whose label, labeling, or advertising contains the terms described in such paragraph on such date of enactment. The effective date shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with paragraph (2)(A)(ii).

''(c) TOBACCO DEPENDENCE PRODUCTS.—A product that is intended to be used for the treatment of tobacco dependence, including smoking cessation, is not a modified risk tobacco product under this section if it has been approved as a drug or device by the Food and Drug Administration and is subject to the requirements of chapter V.

''(d) FILING.—Any person may file with the Secretary an application for a modified risk tobacco product. Such application shall include—

''(1) a description of the proposed product and any proposed advertising and labeling;

''(2) the conditions for using the product;

''(3) the formulation of the product;

''(4) sample product labels and labeling;

''(5) all documents (including underlying scientific information) relating to research findings conducted, supported, or possessed by the tobacco product manufacturer relating to the effect of the product on tobacco-related diseases and health-related conditions, including information both favorable and unfavorable to the ability of the product to reduce risk or exposure and relating to human health;

''(6) data and information on how consumers actually use the tobacco product; and

''(7) such other information as the Secretary may require.

''(e) PUBLIC AVAILABILITY.—The Secretary shall make the application described in subsection (d) publicly available (except matters in the application which are trade secrets or otherwise confidential, commercial information) and shall request comments by interested persons on the information contained in the application and on the label, labeling, and advertising accompanying such application.

''(f) ADVISORY COMMITTEE.—

''(1) IN GENERAL.—The Secretary shall refer to the Tobacco Products Scientific Advisory Committee any application submitted under this section.

''(2) RECOMMENDATIONS.—Not later than 60 days after the date an application is referred to the Tobacco Products Scientific Advisory Committee under paragraph (1), the Advisory Committee shall report its recommendations on the application to the Secretary.

''(g) MARKETING.—

''(1) MODIFIED RISK PRODUCTS.—Except as provided in paragraph (2), the Secretary shall, with respect to an application submitted under this section, issue an order that a modified risk product may be commercially marketed only if the Secretary determines that the applicant has demonstrated that such product, as it is actually used by consumers, will—

''(A) significantly reduce harm and the risk of tobacco-related disease to individual tobacco users; and

''(B) benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

''(2) SPECIAL RULE FOR CERTAIN PRODUCTS.—

''(A) IN GENERAL.—The Secretary may issue an order that a tobacco product may be introduced or delivered for introduction into interstate commerce, pursuant to an application under this section, with respect to a tobacco product that may not be commercially marketed under paragraph (1) if the Secretary makes the findings required under this paragraph and determines that the applicant has demonstrated that—

''(i) such order would be appropriate to promote the public health;

''(ii) any aspect of the label, labeling, and advertising for such product that would cause the tobacco product to be a modified risk tobacco product under subsection (b) is limited to an explicit or implicit representation that such tobacco product or its smoke does not contain or is free of a substance or contains a reduced level of a substance, or presents a reduced exposure to a substance in tobacco smoke;

''(iii) scientific evidence is not available and, using the best available scientific methods, cannot be made available without conducting long-term epidemiological studies for an application to meet the standards set forth in paragraph (1); and

''(iv) the scientific evidence that is available without conducting long-term epidemiological studies demonstrates that a measurable and substantial reduction in morbidity or mortality among individual tobacco users is reasonably likely in subsequent studies.

''(B) ADDITIONAL FINDINGS REQUIRED.—To issue an order under subparagraph (A) the Secretary must also find that the applicant has demonstrated that—

''(i) the magnitude of the overall reductions in exposure to the substance or substances which are the subject of the application is substantial, such substance or substances are harmful, and the product as actually used exposes consumers to the specified reduced level of the substance or substances;

''(ii) the product as actually used by consumers will not expose them to higher levels of other harmful substances compared to the similar types of tobacco products then on the market unless such increases are minimal and the reasonably likely overall impact of use of the product remains a substantial and measurable reduction in overall morbidity and mortality among individual tobacco users;

''(iii) testing of actual consumer perception shows that, as the applicant proposes to label and market the product, consumers will not be misled into believing that the product—

''(I) is or has been demonstrated to be less harmful; or

''(II) presents or has been demonstrated to present less of a risk of disease than 1 or more other commercially marketed tobacco products; and

''(iv) issuance of an order with respect to the application is expected to benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

''(C) CONDITIONS OF MARKETING.—

''(i) IN GENERAL.—Applications subject to an order under this paragraph shall be limited to a term of not more than 5 years, but may be renewed upon a finding by the Secretary that the requirements of this paragraph continue to be satisfied based on the filing of a new application.

''(ii) AGREEMENTS BY APPLICANT.—An order under this paragraph shall be conditioned on the applicant's agreement to conduct postmarket surveillance and studies and to submit to the Secretary the results of such surveillance and studies to determine the impact of the order on consumer perception, behavior, and health and to enable the Secretary to review the accuracy of the determinations upon which the order was based in accordance with a protocol approved by the Secretary.

''(iii) ANNUAL SUBMISSION.—The results of such postmarket surveillance and studies described in clause (ii) shall be submitted annually.

''(3) BASIS.—The determinations under paragraphs (1) and (2) shall be based on—

''(A) the scientific evidence submitted by the applicant; and

''(B) scientific evidence and other information that is made available to the Secretary.

''(4) BENEFIT TO HEALTH OF INDIVIDUALS AND OF POPULATION AS A WHOLE.—In making the determinations under paragraphs (1) and (2), the Secretary shall take into account—

''(A) the relative health risks to individuals of the tobacco product that is the subject of the application;

''(B) the increased or decreased likelihood that existing users of tobacco products who would otherwise stop using such products will switch to the tobacco product that is the subject of the application;

''(C) the increased or decreased likelihood that persons who do not use tobacco products will start using the tobacco product that is the subject of the application;

''(D) the risks and benefits to persons from the use of the tobacco product that is the subject of the application as compared to the use of products for smoking cessation approved under chapter V to treat nicotine dependence; and

''(E) comments, data, and information submitted by interested persons.

''(h) ADDITIONAL CONDITIONS FOR MARKETING.—

''(1) MODIFIED RISK PRODUCTS.—The Secretary shall require for the marketing of a product under this section that any advertising or labeling concerning modified risk products enable the public to comprehend the information concerning modified risk and to understand the relative significance of such information in the context of total health and in relation to all of the diseases and health-related conditions associated with the use of tobacco products.

''(2) COMPARATIVE CLAIMS.—

''(A) IN GENERAL.—The Secretary may require for the marketing of a product under this subsection that a claim comparing a tobacco product to 1 or more other commercially marketed tobacco products shall compare the tobacco product to a commercially marketed tobacco product that is representative of that type of tobacco product on the market (for example the average value of the top 3 brands of an established regular tobacco product).

''(B) QUANTITATIVE COMPARISONS.—The Secretary may also require, for purposes of subparagraph (A), that the percent (or fraction) of change and identity of the reference tobacco product and a quantitative comparison of the amount of the substance claimed to be reduced shall be stated in immediate proximity to the most prominent claim.

''(3) LABEL DISCLOSURE.—

''(A) IN GENERAL.—The Secretary may require the disclosure on the label of other substances in the tobacco product, or substances that may be produced by the consumption of that tobacco product, that may affect a disease or health-related condition or may increase the risk of other diseases or health-related conditions associated with the use of tobacco products.

''(B) CONDITIONS OF USE.—If the conditions of use of the tobacco product may affect the risk of the product to human health, the Secretary may require the labeling of conditions of use.

''(4) TIME.—An order issued under subsection (g)(1) shall be effective for a specified period of time.

''(5) ADVERTISING.—The Secretary may require, with respect to a product for which an applicant obtained an order under subsection (g)(1), that the product comply with requirements relating to advertising and promotion of the tobacco product.

''(i) POSTMARKET SURVEILLANCE AND STUDIES.—

''(1) IN GENERAL.—The Secretary shall require, with respect to a product for which an applicant obtained an order under subsection (g)(1), that the applicant conduct postmarket surveillance and studies for such a tobacco product to determine the impact of the order issuance on consumer perception, behavior, and health, to enable the Secretary to review the accuracy of the determinations upon which the order was based, and to provide information that the Secretary determines is otherwise necessary regarding the use or health risks involving the tobacco product. The results of postmarket surveillance and studies shall be submitted to the Secretary on an annual basis.

''(2) SURVEILLANCE PROTOCOL.—Each applicant required to conduct a surveillance of a tobacco product under paragraph (1) shall, within 30 days after receiving notice that the applicant is required to conduct such surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance. The Secretary, within 60 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of the data or other information designated by the Secretary as necessary to protect the public health.

''(j) WITHDRAWAL OF AUTHORIZATION.—The Secretary, after an opportunity for an informal hearing, shall withdraw an order under subsection (g) if the Secretary determines that—

''(1) the applicant, based on new information, can no longer make the demonstrations required under subsection (g), or the Secretary can no longer make the determinations required under subsection (g);

''(2) the application failed to include material information or included any untrue statement of material fact;

''(3) any explicit or implicit representation that the product reduces risk or exposure is no longer valid, including if—

''(A) a tobacco product standard is established pursuant to section 907;

''(B) an action is taken that affects the risks presented by other commercially marketed tobacco products that were compared to the product that is the subject of the application; or

''(C) any postmarket surveillance or studies reveal that the order is no longer consistent with the protection of the public health;

''(4) the applicant failed to conduct or submit the postmarket surveillance and studies required under subsection (g)(2)(C)(ii) or subsection (i); or

''(5) the applicant failed to meet a condition imposed under subsection (h).

''(k) CHAPTER IV OR V.—A product for which the Secretary has issued an order pursuant to subsection (g) shall not be subject to chapter IV or V.

''(l) IMPLEMENTING REGULATIONS OR GUIDANCE.—

''(1) SCIENTIFIC EVIDENCE.—Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations or guidance (or any combination thereof) on the scientific evidence required for assessment and ongoing review of modified risk tobacco products. Such regulations or guidance shall—

''(A) to the extent that adequate scientific evidence exists, establish minimum standards for scientific studies needed prior to issuing an order under subsection (g) to show that a substantial reduction in morbidity or mortality among individual tobacco users occurs for products described in subsection (g)(1) or is reasonably likely for products described in subsection (g)(2);

''(B) include validated biomarkers, intermediate clinical endpoints, and other feasible outcome measures, as appropriate;

''(C) establish minimum standards for postmarket studies, that shall include regular and long-term assessments of health outcomes and mortality, intermediate clinical endpoints, consumer perception of harm reduction, and the impact on quitting behavior and new use of tobacco products, as appropriate;

''(D) establish minimum standards for required postmarket surveillance, including ongoing assessments of consumer perception;

''(E) require that data from the required studies and surveillance be made available to the Secretary prior to the decision on renewal of a modified risk tobacco product; and

''(F) establish a reasonable timetable for the Secretary to review an application under this section.

''(2) CONSULTATION.—The regulations or guidance issued under paragraph (1) shall be developed in consultation with the Institute of Medicine, and with the input of other appropriate scientific and medical experts, on the design and conduct of such studies and surveillance.

''(3) REVISION.—The regulations or guidance under paragraph (1) shall be revised on a regular basis as new scientific information becomes available.

''(4) NEW TOBACCO PRODUCTS.—Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue a regulation or guidance that permits the filing of a single application for any tobacco product that is a new tobacco product under section 910 and which the applicant seeks to commercially market under this section.

''(m) DISTRIBUTORS.—Except as provided in this section, no distributor may take any action, after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, with respect to a tobacco product that would reasonably be expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to, or does not contain or is free of, a substance or substances.

"SEC. 912. JUDICIAL REVIEW.

''(a) RIGHT TO REVIEW.—

''(1) IN GENERAL.—Not later than 30 days after—

''(A) the promulgation of a regulation under section 907 establishing, amending, or revoking a tobacco product standard; or

''(B) a denial of an application under section 910(c),

any person adversely affected by such regulation or denial may file a petition for judicial review of such regulation or denial with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has their principal place of business.

''(2) REQUIREMENTS.—

''(A) COPY OF PETITION.—A copy of the petition filed under paragraph (1) shall be transmitted by the clerk of the court involved to the Secretary.

''(B) RECORD OF PROCEEDINGS.—On receipt of a petition under subparagraph (A), the Secretary shall file in the court in which such petition was filed—

''(i) the record of the proceedings on which the regulation or order was based; and

''(ii) a statement of the reasons for the issuance of such a regulation or order.

''(C) DEFINITION OF RECORD.—In this section, the term 'record' means—

''(i) all notices and other matter published in the Federal Register with respect to the regulation or order reviewed;

''(ii) all information submitted to the Secretary with respect to such regulation or order;

''(iii) proceedings of any panel or advisory committee with respect to such regulation or order;

''(iv) any hearing held with respect to such regulation or order; and

''(v) any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

''(b) STANDARD OF REVIEW.—Upon the filing of the petition under subsection (a) for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided for in such chapter. A regulation or denial described in subsection (a) shall be reviewed in accordance with section 706(2)(A) of title 5, United States Code.

''(c) FINALITY OF JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

''(d) OTHER REMEDIES.—The remedies provided for in this section shall be in addition to, and not in lieu of, any other remedies provided by law.

''(e) REGULATIONS AND ORDERS MUST RECITE BASIS IN RECORD.—To facilitate judicial review, a regulation or order issued under section 906, 907, 908, 909, 910, or 916 shall contain a statement of the reasons for the issuance of such regulation or order in the record of the proceedings held in connection with its issuance.

"SEC. 913. EQUAL TREATMENT OF RETAIL OUTLETS.

''The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.

"SEC. 914. JURISDICTION OF AND COORDINATION WITH THE FEDERAL TRADE COMMISSION.

''(a) JURISDICTION.—

''(1) IN GENERAL.—Except where expressly provided in this chapter, nothing in this chapter shall be construed as limiting or diminishing the

authority of the Federal Trade Commission to enforce the laws under its jurisdiction with respect to the advertising, sale, or distribution of tobacco products.

''(2) ENFORCEMENT.—Any advertising that violates this chapter or a provision of the regulations referred to in section 102 of the Family Smoking Prevention and Tobacco Control Act, is an unfair or deceptive act or practice under section 5(a) of the Federal Trade Commission Act and shall be considered a violation of a rule promulgated under section 18 of that Act.

''(b) COORDINATION.—With respect to the requirements of section 4 of the Federal Cigarette Labeling and Advertising Act and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986—

''(1) the Chairman of the Federal Trade Commission shall coordinate with the Secretary concerning the enforcement of such Act as such enforcement relates to unfair or deceptive acts or practices in the advertising of cigarettes or smokeless tobacco; and

''(2) the Secretary shall consult with the Chairman of such Commission in revising the label statements and requirements under such sections.

"SEC. 915. REGULATION REQUIREMENT.

''(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 36 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall promulgate regulations under this Act that meet the requirements of subsection (b).

''(b) CONTENTS OF RULES.—The regulations promulgated under subsection (a)—

''(1) shall require testing and reporting of tobacco product constituents, ingredients, and additives, including smoke constituents, by brand and subbrand that the Secretary determines should be tested to protect the public health, provided that, for purposes of the testing requirements of this paragraph, tobacco products manufactured and sold by a single tobacco product manufacturer that are identical in all respects except the labels, packaging design, logo, trade dress, trademark, brand name, or any combination thereof, shall be considered as a single brand; and

''(2) may require that tobacco product manufacturers, packagers, or importers make disclosures relating to the results of the testing of tar and nicotine through labels or advertising or other appropriate means, and make disclosures regarding the results of the testing of other constituents, including smoke constituents, ingredients, or additives, that the Secretary determines should be disclosed to the public to protect the public health and will not mislead consumers about the risk of tobacco-related disease.

''(c) AUTHORITY.—The Secretary shall have the authority under this chapter to conduct or to require the testing, reporting, or disclosure of tobacco product constituents, including smoke constituents.

''(d) SMALL TOBACCO PRODUCT MANUFACTURERS.—

''(1) FIRST COMPLIANCE DATE.—The initial regulations promulgated under subsection (a) shall not impose requirements on small tobacco product manufacturers before the later of—

''(A) the end of the 2-year period following the final promulgation of such regulations; and

''(B) the initial date set by the Secretary for compliance with such regulations by manufacturers that are not small tobacco product manufacturers.

''(2) TESTING AND REPORTING INITIAL COMPLIANCE PERIOD.—

''(A) 4-YEAR PERIOD.—The initial regulations promulgated under subsection (a) shall give each small tobacco product manufacturer a 4-year period over which to conduct testing and reporting for all of its tobacco products. Subject to paragraph (1), the end of the first year of such 4-year period shall coincide with the initial date of compliance under this section set by the Secretary with respect to manufacturers that are not small tobacco product manufacturers or the end of the 2-year period following the final promulgation of such regulations, as described in paragraph (1)(A). A small tobacco product manufacturer shall be required—

''(i) to conduct such testing and reporting for 25 percent of its tobacco products during each year of such 4-year period; and

''(ii) to conduct such testing and reporting for its largest-selling tobacco products (as determined by the Secretary) before its other tobacco products, or in such other order of priority as determined by the Secretary.

''(B) CASE-BY-CASE DELAY.—Notwithstanding subparagraph (A), the Secretary may, on a case-by-case basis, delay the date by which an individual small tobacco product manufacturer must conduct testing and reporting for its tobacco products under this section based upon a showing of undue hardship to such manufacturer. Notwithstanding the preceding sentence, the Secretary shall not extend the deadline for a small tobacco product manufacturer to conduct testing and reporting for all of its tobacco products beyond a total of 5 years after the initial date of compliance under this section set by the Secretary with respect to manufacturers that are not small tobacco product manufacturers.

''(3) SUBSEQUENT AND ADDITIONAL TESTING AND REPORTING.—The regulations promulgated under subsection (a) shall provide that, with respect to any subsequent or additional testing and reporting of tobacco products required under this section, such testing and reporting by a small tobacco product manufacturer shall be conducted in accordance with the timeframes described in paragraph (2)(A), except that, in the case of a new product, or if there has been a modification described in section 910(a)(1)(B) of any product of a small tobacco product manufacturer since the last testing and reporting required under this section, the Secretary shall require that any subsequent or additional testing and reporting be conducted in accordance with the same timeframe applicable to manufacturers that are not small tobacco product manufacturers.

''(4) JOINT LABORATORY TESTING SERVICES.—The Secretary shall allow any 2 or more small tobacco product manufacturers to join together to purchase laboratory testing services required by this section on a group basis in order to ensure that such manufacturers receive access to, and fair pricing of, such testing services.

''(e) EXTENSIONS FOR LIMITED LABORATORY CAPACITY.—

''(1) IN GENERAL.—The regulations promulgated under subsection (a) shall provide that a small tobacco product manufacturer shall not be considered to be in violation of this section before the deadline applicable under paragraphs (3) and (4), if—

''(A) the tobacco products of such manufacturer are in compliance with all other requirements of this chapter; and

''(B) the conditions described in paragraph (2) are met.

''(2) CONDITIONS.—Notwithstanding the requirements of this section, the Secretary may delay the date by which a small tobacco product manufacturer must be in compliance with the testing and reporting required by this section until such time as the testing is reported if, not later than 90 days before the deadline for reporting in accordance with this section, a small tobacco product manufacturer provides evidence to the Secretary demonstrating that—

''(A) the manufacturer has submitted the required products for testing to a laboratory and has done so sufficiently in advance of the deadline to create a reasonable expectation of completion by the deadline;

''(B) the products currently are awaiting testing by the laboratory; and

''(C) neither that laboratory nor any other laboratory is able to complete testing by the deadline at customary, nonexpedited testing fees.

''(3) EXTENSION.—The Secretary, taking into account the laboratory testing capacity that is available to tobacco product manufacturers, shall review and verify the evidence submitted by a small tobacco product manufacturer in accordance with paragraph (2). If the Secretary finds that the conditions described in such paragraph are met, the Secretary shall notify the small tobacco product manufacturer that the manufacturer shall not be considered to be in violation of the testing and reporting requirements of this section until the testing is reported or until 1 year after the reporting deadline has passed, whichever occurs sooner. If, however, the Secretary has not made a finding before the reporting deadline, the manufacturer shall not be considered to be in violation of such requirements until the Secretary finds that the conditions described in paragraph (2) have not been met, or until 1 year after the reporting deadline, whichever occurs sooner.

''(4) ADDITIONAL EXTENSION.—In addition to the time that may be provided under paragraph (3), the Secretary may provide further extensions of time, in increments of no more than 1 year, for required testing and reporting to occur if the Secretary determines, based on evidence properly and timely submitted by a small tobacco product manufacturer in accordance with paragraph (2), that a lack of available laboratory capacity prevents the manufacturer from completing the required testing during the period described in paragraph (3).

''(f) RULE OF CONSTRUCTION.—Nothing in subsection (d) or (e) shall be construed to authorize the extension of any deadline, or to otherwise affect any timeframe, under any provision of this Act or the Family Smoking Prevention and Tobacco Control Act other than this section.

"SEC. 916. PRESERVATION OF STATE AND LOCAL AUTHORITY.

''(a) IN GENERAL.—

''(1) PRESERVATION.—Except as provided in paragraph (2)(A), nothing in this chapter, or rules promulgated under this chapter, shall be construed to limit the authority of a Federal agency (including the Armed Forces), a State or political subdivision of a State, or the government of an Indian tribe to enact, adopt, promulgate, and enforce any law, rule, regulation, or other measure with respect to tobacco products that is in addition to, or more stringent than, requirements established under this chapter, including a law, rule, regulation, or other measure relating to or prohibiting the sale, distribution, possession, exposure to, access to, advertising and promotion of, or use of tobacco products by individuals of any age, information reporting to the State, or measures relating to fire safety standards for tobacco products. No provision of this chapter shall limit or otherwise affect any State, tribal, or local taxation of tobacco products.

''(2) PREEMPTION OF CERTAIN STATE AND LOCAL REQUIREMENTS.—

''(A) IN GENERAL.—No State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement under the provisions of this chapter relating to tobacco product standards, premarket review, adulteration, misbranding, labeling, registration, good manufacturing standards, or modified risk tobacco products.

''(B) EXCEPTION.—Subparagraph (A) does not apply to requirements relating to the sale, distribution, possession, information reporting to the State, exposure to, access to, the advertising and promotion of, or use of, tobacco products by individuals of any age, or relating to fire safety standards for tobacco products. Information disclosed to a State under subparagraph (A) that is exempt from disclosure under section 552(b)(4) of title 5, United States Code, shall be treated as a trade secret and confidential information by the State.

''(b) RULE OF CONSTRUCTION REGARDING PRODUCT LIABILITY.—No provision of this chapter relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

"SEC. 917. TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.

''(a) ESTABLISHMENT.—Not later than 6 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish a 12-member advisory committee, to be known as the Tobacco Products Scientific Advisory Committee (in this section referred to as the 'Advisory Committee').

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—

''(A) MEMBERS.—The Secretary shall appoint as members of the Tobacco Products Scientific Advisory Committee individuals who are technically qualified by training and experience in medicine, medical ethics, science, or technology involving the manufacture, evaluation, or use of tobacco products, who are of appropriately diversified professional backgrounds. The committee shall be composed of—

''(i) 7 individuals who are physicians, dentists, scientists, or health care professionals practicing in the area of oncology, pulmonology, cardiology, toxicology, pharmacology, addiction, or any other relevant specialty;

''(ii) 1 individual who is an officer or employee of a State or local government or of the Federal Government;

''(iii) 1 individual as a representative of the general public;

''(iv) 1 individual as a representative of the interests of the tobacco manufacturing industry;

''(v) 1 individual as a representative of the interests of the small business tobacco manufacturing industry, which position may be filled on a rotating, sequential basis by representatives of different small business tobacco manufacturers based on areas of expertise relevant to the topics being considered by the Advisory Committee; and

''(vi) 1 individual as a representative of the interests of the tobacco growers.

''(B) NONVOTING MEMBERS.—The members of the committee appointed under clauses (iv), (v), and (vi) of subparagraph (A) shall serve as consultants to those described in clauses (i) through (iii) of subparagraph (A) and shall be nonvoting representatives.

''(C) CONFLICTS OF INTEREST.—No members of the committee, other than members appointed pursuant to clauses (iv), (v), and (vi) of subparagraph (A) shall, during the member's tenure on the committee or for the 18-month period prior to becoming such a member, receive any salary, grants, or other payments or support from any business that manufactures, distributes, markets, or sells cigarettes or other tobacco products.

''(2) LIMITATION.—The Secretary may not appoint to the Advisory Committee any individual who is in the regular full-time employ of the Food and Drug Administration or any agency responsible for the enforcement of this Act. The Secretary may appoint Federal officials as ex officio members.

''(3) CHAIRPERSON.—The Secretary shall designate 1 of the members appointed under clauses (i), (ii), and (iii) of paragraph (1)(A) to serve as chairperson.

''(c) DUTIES.—The Tobacco Products Scientific Advisory Committee shall provide advice, information, and recommendations to the Secretary—

''(1) as provided in this chapter;

''(2) on the effects of the alteration of the nicotine yields from tobacco products;

''(3) on whether there is a threshold level below which nicotine yields do not produce dependence on the tobacco product involved; and

''(4) on its review of other safety, dependence, or health issues relating to tobacco products as requested by the Secretary.

''(d) COMPENSATION; SUPPORT; FACA.—

''(1) COMPENSATION AND TRAVEL.—Members of the Advisory Committee who are not officers or employees of the United States, while attending conferences or meetings of the committee or otherwise engaged in its business, shall be entitled to receive compensation at rates to be fixed by the Secretary, which may not exceed the daily equivalent of the rate in effect under the Senior Executive Schedule under section 5382 of title 5, United States Code, for each day (including travel time) they are so engaged; and while so serving away from their homes or regular places of business each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

''(2) ADMINISTRATIVE SUPPORT.—The Secretary shall furnish the Advisory Committee clerical and other assistance.

''(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act does not apply to the Advisory Committee.

''(e) PROCEEDINGS OF ADVISORY PANELS AND COMMITTEES.—The Advisory Committee shall make and maintain a transcript of any proceeding of the panel or committee. Each such panel and committee shall delete from any transcript made under this subsection information which is exempt from disclosure under section 552(b) of title 5, United States Code.

"SEC. 918. DRUG PRODUCTS USED TO TREAT TOBACCO DEPENDENCE.

''(a) IN GENERAL.—The Secretary shall—

''(1) at the request of the applicant, consider designating products for smoking cessation, including nicotine replacement products as fast track research and approval products within the meaning of section 506;

''(2) consider approving the extended use of nicotine replacement products (such as nicotine patches, nicotine gum, and nicotine lozenges) for the treatment of tobacco dependence; and

''(3) review and consider the evidence for additional indications for nicotine replacement products, such as for craving relief or relapse prevention.

''(b) REPORT ON INNOVATIVE PRODUCTS.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary, after consultation with recognized scientific, medical, and public health experts (including both Federal agencies and nongovernmental entities, the Institute of Medicine of the National Academy of Sciences, and the Society for Research on Nicotine and Tobacco), shall submit to the Congress a report that examines how best to regulate, promote, and encourage the development of innovative products and treatments (including nicotine-based and nonnicotine-based products and treatments) to better achieve, in a manner that best protects and promotes the public health—

''(A) total abstinence from tobacco use;

''(B) reductions in consumption of tobacco; and

''(C) reductions in the harm associated with continued tobacco use.

''(2) RECOMMENDATIONS.—The report under paragraph (1) shall include the recommendations of the Secretary on how the Food and Drug Administration should coordinate and facilitate the exchange of information on such innovative products and treatments among relevant offices and centers within the Administration and within the National Institutes of Health, the Centers for Disease Control and Prevention, and other relevant agencies.

"SEC. 919. USER FEES.

''(a) ESTABLISHMENT OF QUARTERLY FEE.—Beginning on the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall in accordance with this section assess user fees on, and collect such fees from, each manufacturer and importer of tobacco products subject to this chapter. The fees shall be assessed and collected with respect to each quarter of each fiscal year, and the total amount assessed and collected for a fiscal year shall be the amount specified in subsection (b)(1) for such year, subject to subsection (c).

''(b) ASSESSMENT OF USER FEE.—

''(1) AMOUNT OF ASSESSMENT.—The total amount of user fees authorized to be assessed and collected under subsection (a) for a fiscal year is the following, as applicable to the fiscal year involved:

''(A) For fiscal year 2009, $85,000,000 (subject to subsection (e)).

''(B) For fiscal year 2010, $235,000,000.

''(C) For fiscal year 2011, $450,000,000.

''(D) For fiscal year 2012, $477,000,000.

''(E) For fiscal year 2013, $505,000,000.

''(F) For fiscal year 2014, $534,000,000.

''(G) For fiscal year 2015, $566,000,000.

''(H) For fiscal year 2016, $599,000,000.

''(I) For fiscal year 2017, $635,000,000.

''(J) For fiscal year 2018, $672,000,000.

''(K) For fiscal year 2019 and each subsequent fiscal year, $712,000,000.

''(2) ALLOCATIONS OF ASSESSMENT BY CLASS OF TOBACCO PRODUCTS.—

''(A) IN GENERAL.—The total user fees assessed and collected under subsection (a) each fiscal year with respect to each class of tobacco products shall be an amount that is equal to the applicable percentage of each class for the fiscal year multiplied by the amount specified in paragraph (1) for the fiscal year.

''(B) APPLICABLE PERCENTAGE.—

''(i) IN GENERAL.—For purposes of subparagraph (A), the applicable percentage for a fiscal year for each of the following classes of tobacco products shall be determined in accordance with clause (ii):

''(I) Cigarettes.

''(II) Cigars, including small cigars and cigars other than small cigars.

''(III) Snuff.

''(IV) Chewing tobacco.

''(V) Pipe tobacco.

''(VI) Roll-your-own tobacco.

''(ii) ALLOCATIONS.—The applicable percentage of each class of tobacco product described in clause (i) for a fiscal year shall be the percentage determined under section 625(c) of Public Law 108–357 for each such class of product for such fiscal year.

''(iii) REQUIREMENT OF REGULATIONS.—Notwithstanding clause (ii), no user fees shall be assessed on a class of tobacco products unless such class of tobacco products is listed in section 901(b) or is deemed by the Secretary in a regulation under section 901(b) to be subject to this chapter.

''(iv) REALLOCATIONS.—In the case of a class of tobacco products that is not listed in section 901(b) or deemed by the Secretary in a regulation under section 901(b) to be subject to this chapter, the amount of user fees that would otherwise be assessed to such class of tobacco products shall be reallocated to the classes of tobacco products that are subject to this chapter in the same manner and based on the same relative percentages otherwise determined under clause (ii).

''(3) DETERMINATION OF USER FEE BY COMPANY.—

''(A) IN GENERAL.—The total user fee to be paid by each manufacturer or importer of a particular class of tobacco products shall be determined for each quarter by multiplying—

''(i) such manufacturer's or importer's percentage share as determined under paragraph (4); by

''(ii) the portion of the user fee amount for the current quarter to be assessed on all manufacturers and importers of such class of tobacco products as determined under paragraph (2).

''(B) NO FEE IN EXCESS OF PERCENTAGE SHARE.—No manufacturer or importer of tobacco products shall be required to pay a user fee in excess of the percentage share of such manufacturer or importer.

''(4) ALLOCATION OF ASSESSMENT WITHIN EACH CLASS OF TOBACCO PRODUCT.—The percentage share of each manufacturer or importer of a particular class of tobacco products of the total user fee to be paid by all manufacturers or importers of that class of tobacco products shall be the percentage determined for purposes of allocations under subsections (e) through (h) of section 625 of Public Law 108–357.

''(5) ALLOCATION FOR CIGARS.—Notwithstanding paragraph (4), if a user fee assessment is imposed on cigars, the percentage share of each manufacturer or importer of cigars shall be based on the excise taxes paid by such manufacturer or importer during the prior fiscal year.

''(6) TIMING OF ASSESSMENT.—The Secretary shall notify each manufacturer and importer of tobacco products subject to this section of the amount of the quarterly assessment imposed on such manufacturer or importer under this subsection for each quarter of each fiscal year. Such notifications shall occur not later than 30 days prior to the end of the quarter for which such assessment is made, and payments of all assessments shall be made by the last day of the quarter involved.

''(7) MEMORANDUM OF UNDERSTANDING.—

''(A) IN GENERAL.—The Secretary shall request the appropriate Federal agency to enter into a memorandum of understanding that provides for the regular and timely transfer from the head of such agency to the Secretary of the information described in paragraphs (2)(B)(ii) and (4) and all necessary information regarding all tobacco product manufacturers and importers required to pay user fees. The Secretary shall maintain all disclosure restrictions established by the head of such agency regarding the information provided under the memorandum of understanding.

''(B) ASSURANCES.—Beginning not later than fiscal year 2015, and for each subsequent fiscal year, the Secretary shall ensure that the Food and Drug Administration is able to determine the applicable percentages described in paragraph (2) and the percentage shares described in paragraph (4). The Secretary may carry out this subparagraph by entering into a contract with the head of the Federal agency referred to in subparagraph (A) to continue to provide the necessary information.

''(c) CREDITING AND AVAILABILITY OF FEES.—

''(1) IN GENERAL.—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts, subject to paragraph (2)(D). Such fees are authorized to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation.

''(2) AVAILABILITY.—

''(A) IN GENERAL.—Fees appropriated under paragraph (3) are available only for the purpose of paying the costs of the activities of the Food and Drug Administration related to the regulation of tobacco products under this chapter and the Family Smoking Prevention and Tobacco Control Act (referred to in this subsection as 'tobacco regulation activities'), except that such fees may be used for the reimbursement specified in subparagraph (C).

''(B) PROHIBITION AGAINST USE OF OTHER FUNDS.—

''(i) IN GENERAL.—Except as provided in clause (ii), fees collected under subsection (a) are the only funds authorized to be made available for tobacco regulation activities.

''(ii) STARTUP COSTS.—Clause (i) does not apply until October 1, 2009. Until such date, any amounts available to the Food and Drug Administration (excluding user fees) shall be available and allocated as needed to pay the costs of tobacco regulation activities.

''(C) REIMBURSEMENT OF START-UP AMOUNTS.—

''(i) IN GENERAL.—Any amounts allocated for the start-up period pursuant to subparagraph (B)(ii) shall be reimbursed through any appropriated fees collected under subsection (a), in such manner as the Secretary determines appropriate to ensure that such allocation results in no net change in the total amount of funds otherwise available, for the period from October 1, 2008, through September 30, 2010, for Food and Drug Administration programs and activities (other than tobacco regulation activities) for such period.

''(ii) TREATMENT OF REIMBURSED AMOUNTS.—Amounts reimbursed under clause (i) shall be available for the programs and activities for which funds allocated for the start-up period were available, prior to such allocation, until September 30, 2010, notwithstanding any otherwise applicable limits on amounts for such programs or activities for a fiscal year.

''(D) FEE COLLECTED DURING START-UP PERIOD.—Notwithstanding the first sentence of paragraph (1), fees under subsection (a) may be collected through September 30, 2009 under subparagraph (B)(ii) and shall be available for obligation and remain available until expended. Such offsetting collections shall be credited to the salaries and expenses account of the Food and Drug Administration.

''(E) OBLIGATION OF START-UP COSTS IN ANTICIPATION OF AVAILABLE FEE COLLECTIONS.—Notwithstanding any other provision of law, following the enactment of an appropriation for fees under this section for fiscal year 2010, or any portion thereof, obligations for costs of tobacco regulation activities during the start-up period may be incurred in anticipation of the receipt of offsetting fee collections through procedures specified in section 1534 of title 31, United States Code.

''(3) AUTHORIZATION OF APPROPRIATIONS.—For fiscal year 2009 and each subsequent fiscal year, there is authorized to be appropriated for fees under this section an amount equal to the amount specified in subsection (b)(1) for the fiscal year.

''(d) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under subsection (a) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

''(e) APPLICABILITY TO FISCAL YEAR 2009.—If the date of enactment of the Family Smoking Prevention and Tobacco Control Act occurs during fiscal year 2009, the following applies, subject to subsection (c):

''(1) The Secretary shall determine the fees that would apply for a single quarter of such fiscal year according to the application of subsection (b) to the amount specified in paragraph (1)(A) of such subsection (referred to in this subsection as the 'quarterly fee amounts').

''(2) For the quarter in which such date of enactment occurs, the amount of fees assessed shall be a pro rata amount, determined according to the number of days remaining in the quarter (including such date of enactment) and according to the daily equivalent of the quarterly fee amounts. Fees assessed under the preceding sentence shall not be collected until the next quarter.

''(3) For the quarter following the quarter to which paragraph (2) applies, the full quarterly fee amounts shall be assessed and collected, in addition to collection of the pro rata fees assessed under paragraph (2).''.

(c) CONFORMING AMENDMENT.—Section 9(1) of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4408(i)) is amended to read as follows:

''(1) The term 'smokeless tobacco' has the meaning given such term by section 900(18) of the Federal Food, Drug, and Cosmetic Act.''.

SEC. 102. FINAL RULE.

(a) CIGARETTES AND SMOKELESS TOBACCO.—

(1) IN GENERAL.—On the first day of publication of the Federal Register that is 180 days or more after the date of enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register a final rule regarding cigarettes and smokeless tobacco, which—

(A) is deemed to be issued under chapter 9 of the Federal Food, Drug, and Cosmetic Act, as added by section 101 of this division; and

(B) shall be deemed to be in compliance with all applicable provisions of chapter 5 of title 5, United States Code, and all other provisions of law relating to rulemaking procedures.

(2) CONTENTS OF RULE.—Except as provided in this subsection, the final rule published under paragraph (1), shall be identical in its provisions to part 897 of the regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (61 Fed. Reg. 44615–44618). Such rule shall—

(A) provide for the designation of jurisdictional authority that is in accordance with this subsection in accordance with this division and the amendments made by this division;

(B) strike Subpart C—Labels and section 897.32(c);

(C) strike paragraphs (a), (b), and (i) of section 897.3 and insert definitions of the terms ''cigarette'', ''cigarette tobacco'', and ''smokeless tobacco'' as defined in section 900 of the Federal Food, Drug, and Cosmetic Act;

(D) insert ''or roll-your-own paper'' in section 897.34(a) after ''other than cigarettes or smokeless tobacco'';

(E) include such modifications to section 897.30(b), if any, that the Secretary determines are appropriate in light of governing First Amendment case law, including the decision of the Supreme Court of the United States in Lorillard Tobacco Co. v. Reilly (533 U.S. 525 (2001));

(F) become effective on the date that is 1 year after the date of enactment of this Act; and

(G) amend paragraph (d) of section 897.16 to read as follows:

''(d)(1) Except as provided in subparagraph (2), no manufacturer, distributor, or retailer may distribute or cause to be distributed any free samples of cigarettes, smokeless tobacco, or other tobacco products (as such term is defined in section 201 of the Federal Food, Drug, and Cosmetic Act).

''(2)(A) Subparagraph (1) does not prohibit a manufacturer, distributor, or retailer from distributing or causing to be distributed free samples of smokeless tobacco in a qualified adult-only facility.

''(B) This subparagraph does not affect the authority of a State or local government to prohibit or otherwise restrict the distribution of free samples of smokeless tobacco.

''(C) For purposes of this paragraph, the term 'qualified adult-only facility' means a facility or restricted area that—

''(i) requires each person present to provide to a law enforcement officer (whether on or off duty) or to a security guard licensed by a governmental entity government-issued identification showing a photograph and at least the minimum age established by applicable law for the purchase of smokeless tobacco;

''(ii) does not sell, serve, or distribute alcohol;

''(iii) is not located adjacent to or immediately across from (in any direction) a space that is used primarily for youth-oriented marketing, promotional, or other activities;

''(iv) is a temporary structure constructed, designated, and operated as a distinct enclosed area for the purpose of distributing free samples of smokeless tobacco in accordance with this subparagraph;

''(v) is enclosed by a barrier that—

''(I) is constructed of, or covered with, an opaque material (except for entrances and exits);

''(II) extends from no more than 12 inches above the ground or floor (which area at the

bottom of the barrier must be covered with material that restricts visibility but may allow airflow) to at least 8 feet above the ground or floor (or to the ceiling); and

''(III) prevents persons outside the qualified adult-only facility from seeing into the qualified adult-only facility, unless they make unreasonable efforts to do so; and

''(vi) does not display on its exterior—

''(I) any tobacco product advertising;

''(II) a brand name other than in conjunction with words for an area or enclosure to identify an adult-only facility; or

''(III) any combination of words that would imply to a reasonable observer that the manufacturer, distributor, or retailer has a sponsorship that would violate section 897.34(c).

''(D) Distribution of samples of smokeless tobacco under this subparagraph permitted to be taken out of the qualified adult-only facility shall be limited to 1 package per adult consumer containing no more than 0.53 ounces (15 grams) of smokeless tobacco. If such package of smokeless tobacco contains individual portions of smokeless tobacco, the individual portions of smokeless tobacco shall not exceed 8 individual portions and the collective weight of such individual portions shall not exceed 0.53 ounces (15 grams). Any manufacturer, distributor, or retailer who distributes or causes to be distributed free samples also shall take reasonable steps to ensure that the above amounts are limited to one such package per adult consumer per day.

''(3) Notwithstanding subparagraph (2), no manufacturer, distributor, or retailer may distribute or cause to be distributed any free samples of smokeless tobacco—

''(A) to a sports team or entertainment group; or

''(B) at any football, basketball, baseball, soccer, or hockey event or any other sporting or entertainment event determined by the Secretary to be covered by this subparagraph.

''(4) The Secretary shall implement a program to ensure compliance with this paragraph and submit a report to the Congress on such compliance not later than 18 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act.

''(5) Nothing in this paragraph shall be construed to authorize any person to distribute or cause to be distributed any sample of a tobacco product to any individual who has not attained the minimum age established by applicable law for the purchase of such product.''.

(3) AMENDMENTS TO RULE.—Prior to making amendments to the rule published under paragraph (1), the Secretary shall promulgate a proposed rule in accordance with chapter 5 of title 5, United States Code.

(4) RULE OF CONSTRUCTION.—Except as provided in paragraph (3), nothing in this section shall be construed to limit the authority of the Secretary to amend, in accordance with chapter 5 of title 5, United States Code, the regulation promulgated pursuant to this section, including the provisions of such regulation relating to distribution of free samples.

(5) ENFORCEMENT OF RETAIL SALE PROVISIONS.—The Secretary of Health and Human Services shall ensure that the provisions of this division, the amendments made by this division, and the implementing regulations (including such provisions, amendments, and regulations relating to the retail sale of tobacco products) are enforced with respect to the United States and Indian tribes.

(6) QUALIFIED ADULT-ONLY FACILITY.—A qualified adult-only facility (as such term is defined in section 897.16(d) of the final rule published under paragraph (1)) that is also a retailer and that commits a violation as a retailer shall not be subject to the limitations in section 103(q) and shall be subject to penalties applicable to a qualified adult-only facility.

(7) CONGRESSIONAL REVIEW PROVISIONS.—Section 801 of title 5, United States Code, shall not apply to the final rule published under paragraph (1).

(b) LIMITATION ON ADVISORY OPINIONS.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary of Health and Human Services or the Food and Drug Administration as binding precedent:

(1) The preamble to the proposed rule in the document titled ''Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents'' (60 Fed. Reg. 41314–41372 (August 11, 1995)).

(2) The document titled ''Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act'' (60 Fed. Reg. 41453–41787 (August 11, 1995)).

(3) The preamble to the final rule in the document titled ''Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents'' (61 Fed. Reg. 44396–44615 (August 28, 1996)).

(4) The document titled ''Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination'' (61 Fed. Reg. 44619–45318 (August 28, 1996)).

SEC. 103. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.

(a) AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended—

(1) in subsection (a), by inserting ''tobacco product,'' after ''device,'';

(2) in subsection (b), by inserting ''tobacco product,'' after ''device,'';

(3) in subsection (c), by inserting ''tobacco product,'' after ''device,'';

(4) in subsection (e)—

(A) by striking the period after ''572(i)''; and

(B) by striking ''or 761 or the refusal to permit access to'' and inserting ''761, 909, or 920 or the refusal to permit access to'';

(5) in subsection (g), by inserting ''tobacco product,'' after ''device,'';

(6) in subsection (h), by inserting ''tobacco product,'' after ''device,'';

(7) in subsection (j)—

(A) by striking the period after ''573''; and

(B) by striking ''708, or 721'' and inserting ''708, 721, 904, 905, 906, 907, 908, 909, or 920(b)'';

(8) in subsection (k), by inserting ''tobacco product,'' after ''device,'';

(9) by striking subsection (p) and inserting the following:

''(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(i)(3).'';

(10) by striking subsection (q)(1) and inserting the following:

''(q)(1) The failure or refusal—

''(A) to comply with any requirement prescribed under section 518, 520(g), 903(b), 907, 908, or 915;

''(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 909, or 920; or

''(C) to comply with a requirement under section 522 or 913.'';

(11) in subsection (q)(2), by striking ''device,'' and inserting ''device or tobacco product,'';

(12) in subsection (r), by inserting ''or tobacco product'' after the term ''device'' each time that such term appears; and

(13) by adding at the end the following:

''(oo) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).

''(pp) The introduction or delivery for introduction into interstate commerce of a tobacco product in violation of section 911.

''(qq)(1) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp (including tax stamp), tag, label, or other identification device upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

''(2) Making, selling, disposing of, or keeping in possession, control, or custody, or concealing any punch, die, plate, stone, or other item that is designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

''(3) The doing of any act that causes a tobacco product to be a counterfeit tobacco product, or the sale or dispensing, or the holding for sale or dispensing, of a counterfeit tobacco product.

''(rr) The charitable distribution of tobacco products.

''(ss) The failure of a manufacturer or distributor to notify the Attorney General and the Secretary of the Treasury of their knowledge of tobacco products used in illicit trade.

''(tt) Making any express or implied statement or representation directed to consumers with respect to a tobacco product, in a label or labeling or through the media or advertising, that either conveys, or misleads or would mislead consumers into believing, that—

''(1) the product is approved by the Food and Drug Administration;

''(2) the Food and Drug Administration deems the product to be safe for use by consumers;

''(3) the product is endorsed by the Food and Drug Administration for use by consumers; or

''(4) the product is safe or less harmful by virtue of—

''(A) its regulation or inspection by the Food and Drug Administration; or

''(B) its compliance with regulatory requirements set by the Food and Drug Administration; including any such statement or representation rendering the product misbranded under section 903.''.

(c) SECTION 303.—Section 303(f) (21 U.S.C. 333(f)) is amended—

(1) in paragraph (5)—

(A) by striking ''paragraph (1), (2), (3), or (4)'' each place such appears and inserting ''paragraph (1), (2), (3), (4), or (9)'';

(B) in subparagraph (A)—

(i) by striking ''assessed'' the first time it appears and inserting ''assessed, or a no-tobacco-sale order may be imposed,''; and

(ii) by striking ''penalty'' the second time it appears and inserting ''penalty, or upon whom a no-tobacco-sale order is to be imposed,'';

(C) in subparagraph (B)—

(i) by inserting after ''penalty,'' the following: ''or the period to be covered by a no-tobacco-sale order,''; and

(ii) by adding at the end the following: ''A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order.''; and

(D) by adding at the end the following:

''(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.'';

(2) in paragraph (6)—

(A) by inserting ''or the imposition of a no-tobacco-sale order'' after the term ''penalty'' each place such term appears; and

(B) by striking ''issued.'' and inserting ''issued, or on which the no-tobacco-sale order was imposed, as the case may be.''; and

(3) by adding at the end the following:

''(8) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1). Prior to the entry of a no-sale order under this paragraph, a person shall be entitled to a hearing pursuant to the procedures established through regulations of the Food and Drug Administration for assessing civil money penalties, including at a retailer's request a hearing by telephone, or at the nearest regional or field office of the Food and Drug Administration, or at a Federal, State, or county facility within 100 miles from the location of the retail outlet, if such a facility is available.

''(9) CIVIL MONETARY PENALTIES FOR VIOLATION OF TOBACCO PRODUCT REQUIREMENTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), any person who violates a requirement of this Act which relates to tobacco products shall be liable to the United States for a civil penalty in an amount not to exceed $15,000 for each such violation, and not to exceed $1,000,000 for all such violations adjudicated in a single proceeding.

''(B) ENHANCED PENALTIES.—

''(i) Any person who intentionally violates a requirement of section 902(5), 902(6), 904, 908(c), or 911(a), shall be subject to a civil monetary penalty of—

''(I) not to exceed $250,000 per violation, and not to exceed $1,000,000 for all such violations adjudicated in a single proceeding; or

''(II) in the case of a violation that continues after the Secretary provides written notice to such person, $250,000 for the first 30-day period (or any portion thereof) that the person continues to be in violation, and such amount shall double for every 30-day period thereafter that the violation continues, not to exceed $1,000,000 for any 30-day period, and not to exceed $10,000,000 for all such violations adjudicated in a single proceeding.

''(ii) Any person who violates a requirement of section 911(g)(2)(C)(ii) or 911(i)(1), shall be subject to a civil monetary penalty of—

''(I) not to exceed $250,000 per violation, and not to exceed $1,000,000 for all such violations adjudicated in a single proceeding; or

''(II) in the case of a violation that continues after the Secretary provides written notice to such person, $250,000 for the first 30-day period (or any portion thereof) that the person continues to be in violation, and such amount shall double for every 30-day period thereafter that the violation continues, not to exceed $1,000,000 for any 30-day period, and not to exceed $10,000,000 for all such violations adjudicated in a single proceeding.

''(iii) In determining the amount of a civil penalty under clause (i)(II) or (ii)(II), the Secretary shall take into consideration whether the person is making efforts toward correcting the violation of the requirements of the section for which such person is subject to such civil penalty.''.

(d) SECTION 304.—Section 304 (21 U.S.C. 334) is amended—

(1) in subsection (a)(2)—

(A) by striking ''and'' before ''(D)''; and

(B) by striking ''device.'' and inserting the following: ''device, and (E) Any adulterated or misbranded tobacco product.'';

(2) in subsection (d)(1), by inserting ''tobacco product,'' after ''device,'';

(3) in subsection (g)(1), by inserting ''or tobacco product'' after the term ''device'' each place such term appears; and

(4) in subsection (g)(2)(A), by inserting ''or tobacco product'' after ''device''.

(e) SECTION 505.—Section 505(n)(2) (21 U.S.C. 355(n)(2)) is amended by striking ''section 904'' and inserting ''section 1004''.

(f) SECTION 523.—Section 523(b)(2)(D) (21 U.S.C. 360m(b)(2)(D)) is amended by striking ''section 903(g)'' and inserting ''section 1003(g)''.

(g) SECTION 702.—Section 702(a)(1) (U.S.C. 372(a)(1)) is amended—

(1) by striking ''(a)(1)'' and inserting ''(a)(1)(A)''; and

(2) by adding at the end the following:

''(B)(i) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with this paragraph to carry out inspections of retailers within that State in connection with the enforcement of this Act.

''(ii) The Secretary shall not enter into any contract under clause (i) with the government of any of the several States to exercise enforcement authority under this Act on Indian country without the express written consent of the Indian tribe involved.''.

(h) SECTION 703.—Section 703 (21 U.S.C. 373) is amended—

(1) by inserting ''tobacco product,'' after the term ''device,'' each place such term appears; and

(2) by inserting ''tobacco products,'' after the term ''devices,'' each place such term appears.

(i) SECTION 704.—Section 704 (21 U.S.C. 374) is amended—

(1) in subsection (a)(1)—

(A) by striking ''devices, or cosmetics'' each place it appears and inserting ''devices, tobacco products, or cosmetics'';

(B) by striking ''or restricted devices'' each place it appears and inserting ''restricted devices, or tobacco products''; and

(C) by striking ''and devices and subject to'' and all that follows through ''other drugs or devices'' and inserting ''devices, and tobacco products and subject to reporting and inspection under regulations lawfully issued pursuant to section 505 (i) or (k), section 519, section 520(g), or chapter IX and data relating to other drugs, devices, or tobacco products'';

(2) in subsection (b), by inserting ''tobacco product,'' after ''device,''; and

(3) in subsection (g)(13), by striking ''section 903(g)'' and inserting ''section 1003(g)''.

(j) SECTION 705.—Section 705(b) (21 U.S.C. 375(b)) is amended by inserting ''tobacco products,'' after ''devices,''.

(k) SECTION 709.—Section 709 (21 U.S.C. 379a) is amended by inserting ''tobacco product,'' after ''device,''.

(l) SECTION 801.—Section 801 (21 U.S.C. 381) is amended—

(1) in subsection (a)—

(A) by inserting ''tobacco products,'' after the term ''devices,'';

(B) by inserting ''or section 905(h)'' after ''section 510''; and

(C) by striking the term ''drugs or devices'' each time such term appears and inserting ''drugs, devices, or tobacco products'';

(2) in subsection (e)(1)—

(A) by inserting ''tobacco product'' after ''drug, device,''; and

(B) by inserting '', and a tobacco product intended for export shall not be deemed to be in violation of section 906(e), 907, 911, or 920(a),'' before ''if it—''; and

(3) by adding at the end the following:

''(p)(1) Not later than 36 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report regarding—

''(A) the nature, extent, and destination of United States tobacco product exports that do not conform to tobacco product standards established pursuant to this Act;

''(B) the public health implications of such exports, including any evidence of a negative public health impact; and

''(C) recommendations or assessments of policy alternatives available to Congress and the executive branch to reduce any negative public health impact caused by such exports.

''(2) The Secretary is authorized to establish appropriate information disclosure requirements to carry out this subsection.''.

(m) SECTION 1003.—Section 1003(d)(2)(C) (as redesignated by section 101(b)) is amended—

(1) by striking ''and'' after ''cosmetics,''; and

(2) inserting '', and tobacco products'' after ''devices''.

(n) SECTION 1009.—Section 1009(b) (as redesignated by section 101(b)) is amended by striking ''section 908'' and inserting ''section 1008''.

(o) SECTION 409 OF THE FEDERAL MEAT INSPECTION ACT.—Section 409(a) of the Federal Meat Inspection Act (21 U.S.C. 679(a)) is amended by striking ''section 902(b)'' and inserting ''section 1002(b)''.

(p) RULE OF CONSTRUCTION.—Nothing in this section is intended or shall be construed to expand, contract, or otherwise modify or amend the existing limitations on State government authority over tribal restricted fee or trust lands.

(q) GUIDANCE AND EFFECTIVE DATES.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall issue guidance—

(A) defining the term ''repeated violation'', as used in section 303(f)(8) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)(8)) as amended by subsection (c), as including at least 5 violations of particular requirements over a 36-month period at a particular retail outlet that constitute a repeated violation and providing for civil penalties in accordance with paragraph (2);

(B) providing for timely and effective notice by certified or registered mail or personal delivery to the retailer of each alleged violation at a particular retail outlet prior to conducting a followup compliance check, such notice to be sent to the location specified on the retailer's registration or to the retailer's registered agent if the retailer has provider such agent information to the Food and Drug Administration prior to the violation;

(C) providing for a hearing pursuant to the procedures established through regulations of the Food and Drug Administration for assessing civil money penalties, including at a retailer's request a hearing by telephone or at the nearest regional or field office of the Food and Drug Administration, and providing for an expedited procedure for the administrative appeal of an alleged violation;

(D) providing that a person may not be charged with a violation at a particular retail outlet unless the Secretary has provided notice to the retailer of all previous violations at that outlet;

(E) establishing that civil money penalties for multiple violations shall increase from one violation to the next violation pursuant to paragraph (2) within the time periods provided for in such paragraph;

(F) providing that good faith reliance on the presentation of a false government-issued photographic identification that contains a date of birth does not constitute a violation of any minimum age requirement for the sale of tobacco products if the retailer has taken effective steps to prevent such violations, including—

(i) adopting and enforcing a written policy against sales to minors;

(ii) informing its employees of all applicable laws;

(iii) establishing disciplinary sanctions for employee noncompliance; and

(iv) requiring its employees to verify age by way of photographic identification or electronic scanning device; and

(G) providing for the Secretary, in determining whether to impose a no-tobacco-sale order and in determining whether to compromise, modify, or terminate such an order, to consider whether the retailer has taken effective steps to prevent violations of the minimum age

requirements for the sale of tobacco products, including the steps listed in subparagraph (F).

(2) PENALTIES FOR VIOLATIONS.—

(A) IN GENERAL.—The amount of the civil penalty to be applied for violations of restrictions promulgated under section 906(d), as described in paragraph (1), shall be as follows:

(i) With respect to a retailer with an approved training program, the amount of the civil penalty shall not exceed—

(I) in the case of the first violation, $0.00 together with the issuance of a warning letter to the retailer;

(II) in the case of a second violation within a 12-month period, $250;

(III) in the case of a third violation within a 24-month period, $500;

(IV) in the case of a fourth violation within a 24-month period, $2,000;

(V) in the case of a fifth violation within a 36-month period, $5,000; and

(VI) in the case of a sixth or subsequent violation within a 48-month period, $10,000 as determined by the Secretary on a case-by-case basis.

(ii) With respect to a retailer that does not have an approved training program, the amount of the civil penalty shall not exceed—

(I) in the case of the first violation, $250;

(II) in the case of a second violation within a 12-month period, $500;

(III) in the case of a third violation within a 24-month period, $1,000;

(IV) in the case of a fourth violation within a 24-month period, $2,000;

(V) in the case of a fifth violation within a 36-month period, $5,000; and

(VI) in the case of a sixth or subsequent violation within a 48-month period, $10,000 as determined by the Secretary on a case-by-case basis.

(B) TRAINING PROGRAM.—For purposes of subparagraph (A), the term ''approved training program'' means a training program that complies with standards developed by the Food and Drug Administration for such programs.

(C) CONSIDERATION OF STATE PENALTIES.—The Secretary shall coordinate with the States in enforcing the provisions of this Act and, for purposes of mitigating a civil penalty to be applied for a violation by a retailer of any restriction promulgated under section 906(d), shall consider the amount of any penalties paid by the retailer to a State for the same violation.

(3) GENERAL EFFECTIVE DATE.—The amendments made by paragraphs (2), (3), and (4) of subsection (c) shall take effect upon the issuance of guidance described in paragraph (1) of this subsection.

(4) SPECIAL EFFECTIVE DATE.—The amendment made by subsection (c)(1) shall take effect on the date of enactment of this Act.

(5) PACKAGE LABEL REQUIREMENTS.—The package label requirements of paragraphs (3) and (4) of section 903(a) of the Federal Food, Drug, and Cosmetic Act (as amended by this division) shall take effect on the date that is 12 months after the date of enactment of this Act. The package label requirements of paragraph (2) of such section 903(a) for cigarettes shall take effect on the date that is 15 months after the issuance of the regulations required by section 4(d) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 201 of this division. The package label requirements of paragraph (2) of such section 903(a) for tobacco products other than cigarettes shall take effect on the date that is 12 months after the date of enactment of this Act. The effective date shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with section 903(a) (2), (3), and (4) and section 920(a) of the Federal Food, Drug, and Cosmetic Act.

(6) ADVERTISING REQUIREMENTS.—The advertising requirements of section 903(a)(8) of the Federal Food, Drug, and Cosmetic Act (as amended by this division) shall take effect on the date that is 12 months after the date of enactment of this Act.

SEC. 104. STUDY ON RAISING THE MINIMUM AGE TO PURCHASE TOBACCO PRODUCTS.

The Secretary of Health and Human Services shall—

(1) convene an expert panel to conduct a study on the public health implications of raising the minimum age to purchase tobacco products; and

(2) not later than 5 years after the date of enactment of this Act, submit a report to the Congress on the results of such study.

SEC. 105. ENFORCEMENT ACTION PLAN FOR ADVERTISING AND PROMOTION RESTRICTIONS.

(a) ACTION PLAN.—

(1) DEVELOPMENT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall develop and publish an action plan to enforce restrictions adopted pursuant to section 906 of the Federal Food, Drug, and Cosmetic Act, as added by section 101(b) of this division, or pursuant to section 102(a) of this division, on promotion and advertising of menthol and other cigarettes to youth.

(2) CONSULTATION.—The action plan required by paragraph (1) shall be developed in consultation with public health organizations and other stakeholders with demonstrated expertise and experience in serving minority communities.

(3) PRIORITY.—The action plan required by paragraph (1) shall include provisions designed to ensure enforcement of the restrictions described in paragraph (1) in minority communities.

(b) STATE AND LOCAL ACTIVITIES.—

(1) INFORMATION ON AUTHORITY.—Not later than 3 months after the date of enactment of this Act, the Secretary shall inform State, local, and tribal governments of the authority provided to such entities under section 5(c) of the Federal Cigarette Labeling and Advertising Act, as added by section 203 of this division, or preserved by such entities under section 916 of the Federal Food, Drug, and Cosmetic Act, as added by section 101(b) of this division.

(2) COMMUNITY ASSISTANCE.—At the request of communities seeking assistance to prevent underage tobacco use, the Secretary shall provide such assistance, including assistance with strategies to address the prevention of underage tobacco use in communities with a disproportionate use of menthol cigarettes by minors.

SEC. 106. STUDIES OF PROGRESS AND EFFECTIVENESS.

(a) FDA REPORT.—Not later than 3 years after the date of enactment of this Act, and not less than every 2 years thereafter, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report concerning—

(1) the progress of the Food and Drug Administration in implementing this division, including major accomplishments, objective measurements of progress, and the identification of any areas that have not been fully implemented;

(2) impediments identified by the Food and Drug Administration to progress in implementing this division and to meeting statutory timeframes;

(3) data on the number of new product applications received under section 910 of the Federal Food, Drug, and Cosmetic Act and modified risk product applications received under section 911 of such Act, and the number of applications acted on under each category; and

(4) data on the number of full time equivalents engaged in implementing this division.

(b) GAO REPORT.—Not later than 5 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of, and submit to the Committees described in subsection (a) a report concerning—

(1) the adequacy of the authority and resources provided to the Secretary of Health and Human Services for this division to carry out its goals and purposes; and

(2) any recommendations for strengthening that authority to more effectively protect the public health with respect to the manufacture, marketing, and distribution of tobacco products.

(c) PUBLIC AVAILABILITY.—The Secretary of Health and Human Services and the Comptroller General of the United States, respectively, shall make the reports required under subsection (a) and (b) available to the public, including by posting such reports on the respective Internet websites of the Food and Drug Administration and the Government Accountability Office.

TITLE II—TOBACCO PRODUCT WARNINGS; CONSTITUENT AND SMOKE CONSTITUENT DISCLOSURE

SEC. 201. CIGARETTE LABEL AND ADVERTISING WARNINGS.

(a) AMENDMENT.—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

"SEC. 4. LABELING.

''(a) LABEL REQUIREMENTS.—

''(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

''WARNING: Cigarettes are addictive.

''WARNING: Tobacco smoke can harm your children.

''WARNING: Cigarettes cause fatal lung disease.

''WARNING: Cigarettes cause cancer.

''WARNING: Cigarettes cause strokes and heart disease.

''WARNING: Smoking during pregnancy can harm your baby.

''WARNING: Smoking can kill you.

''WARNING: Tobacco smoke causes fatal lung disease in nonsmokers.

''WARNING: Quitting smoking now greatly reduces serious risks to your health.

''(2) PLACEMENT; TYPOGRAPHY; ETC.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Each label statement shall comprise the top 50 percent of the front and rear panels of the package. The word 'WARNING' shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (c).

''(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

''(4) APPLICABILITY TO RETAILERS.—A retailer of cigarettes shall not be in violation of this subsection for packaging that—

''(A) contains a warning label;

''(B) is supplied to the retailer by a license- or permit-holding tobacco product manufacturer, importer, or distributor; and

''(C) is not altered by the retailer in a way that is material to the requirements of this subsection.

''(b) ADVERTISING REQUIREMENTS.—

''(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

''(2) TYPOGRAPHY, ETC.—Each label statement required by subsection (a) in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent (including a smoke constituent) yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word 'WARNING' shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under subsection (c). The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital 'W' of the word 'WARNING' in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that—

''(A) in the case of an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

''(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

''(3) MATCHBOOKS.—Notwithstanding paragraph (2), for matchbooks (defined as containing not more than 20 matches) customarily given away with the purchase of tobacco products, each label statement required by subsection (a) may be printed on the inside cover of the matchbook.

''(4) ADJUSTMENT BY SECRETARY.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section; the text, format, and type sizes of any required tar, nicotine yield, or other constituent (including smoke constituent) disclosures; or the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act. The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2). The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

''(c) MARKETING REQUIREMENTS.—

''(1) RANDOM DISPLAY.—The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

''(2) ROTATION.—The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

''(3) REVIEW.—The Secretary shall review each plan submitted under paragraph (2) and approve it if the plan—

''(A) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

''(B) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

''(4) APPLICABILITY TO RETAILERS.—This subsection and subsection (b) apply to a retailer only if that retailer is responsible for or directs the label statements required under this section except that this paragraph shall not relieve a retailer of liability if the retailer displays, in a location open to the public, an advertisement that does not contain a warning label or has been altered by the retailer in a way that is material to the requirements of this subsection and subsection (b).

''(d) GRAPHIC LABEL STATEMENTS.—Not later than 24 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations that require color graphics depicting the negative health consequences of smoking to accompany the label statements specified in subsection (a)(1). The Secretary may adjust the type size, text and format of the label statements specified in subsections (a)(2) and (b)(2) as the Secretary determines appropriate so that both the graphics and the accompanying label statements are clear, conspicuous, legible and appear within the specified area.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 15 months after the issuance of the regulations required by subsection (a). Such effective date shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by subsection (a).

SEC. 202. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

(a) PREEMPTION.—Section 5(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334(a)) is amended by striking ''No'' and inserting ''Except to the extent the Secretary requires additional or different statements on any cigarette package by a regulation, by an order, by a standard, by an authorization to market a product, or by a condition of marketing a product, pursuant to the Family Smoking Prevention and Tobacco Control Act (and the amendments made by that Act), or as required under section 903(a)(2) or section 920(a) of the Federal Food, Drug, and Cosmetic Act, no''.

(b) CHANGE IN REQUIRED STATEMENTS.—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 201, is further amended by adding at the end the following:

''(d) CHANGE IN REQUIRED STATEMENTS.—The Secretary through a rulemaking conducted under section 553 of title 5, United States Code, may adjust the format, type size, color graphics, and text of any of the label requirements, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act, if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of tobacco products.''.

SEC. 203. STATE REGULATION OF CIGARETTE ADVERTISING AND PROMOTION.

Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended by adding at the end the following:

''(c) EXCEPTION.—Notwithstanding subsection (b), a State or locality may enact statutes and promulgate regulations, based on smoking and health, that take effect after the effective date of the Family Smoking Prevention and Tobacco Control Act, imposing specific bans or restrictions on the time, place, and manner, but not content, of the advertising or promotion of any cigarettes.''.

SEC. 204. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

(a) AMENDMENT.—Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

''SEC. 3. SMOKELESS TOBACCO WARNING.

''(a) GENERAL RULE.—

''(1) It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

''WARNING: This product can cause mouth cancer.

''WARNING: This product can cause gum disease and tooth loss.

''WARNING: This product is not a safe alternative to cigarettes.

''WARNING: Smokeless tobacco is addictive.

''(2) Each label statement required by paragraph (1) shall be—

''(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 30 percent of each such display panel; and

''(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

''(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

''(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

''(5) A retailer of smokeless tobacco products shall not be in violation of this subsection for packaging that—

''(A) contains a warning label;

''(B) is supplied to the retailer by a license- or permit-holding tobacco product manufacturer, importer, or distributor; and

''(C) is not altered by the retailer in a way that is material to the requirements of this subsection.

''(b) REQUIRED LABELS.—

''(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco

product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

''(2)(A) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph.

''(B) For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall comprise at least 20 percent of the area of the advertisement.

''(C) The word 'WARNING' shall appear in capital letters, and each label statement shall appear in conspicuous and legible type.

''(D) The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

''(E) The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital 'W' of the word 'WARNING' in the label statements.

''(F) The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement.

''(G) The label statements shall be in English, except that—

''(i) in the case of an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

''(ii) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

''(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

''(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

''(C) The Secretary shall review each plan submitted under subparagraphs (A) and (B) and approve it if the plan—

''(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

''(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

''(D) This paragraph applies to a retailer only if that retailer is responsible for or directs the label statements under this section, unless the retailer displays, in a location open to the public, an advertisement that does not contain a warning label or has been altered by the retailer in a way that is material to the requirements of this subsection.

''(4) The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section; the text, format, and type sizes of any required tar, nicotine yield, or other constituent disclosures; or the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act. The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of advertisements provided by paragraph (2). The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

''(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 12 months after the date of enactment of this Act. Such effective date shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by subsection (a).

SEC. 205. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.

(a) IN GENERAL.—Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by section 204, is further amended by adding at the end the following:

''(d) AUTHORITY TO REVISE WARNING LABEL STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the label requirements, require color graphics to accompany the text, increase the required label area from 30 percent up to 50 percent of the front and rear panels of the package, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act, if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.''.

(b) PREEMPTION.—Section 7(a) of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4406(a)) is amended by striking ''No'' and inserting ''Except as provided in the Family Smoking Prevention and Tobacco Control Act (and the amendments made by that Act), no''.

SEC. 206. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by sections 201 and 202, is further amended by adding at the end the following:

''(e) TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE.—

''(1) IN GENERAL.—The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

''(2) RESOLUTION OF DIFFERENCES.—Any differences between the requirements established by the Secretary under paragraph (1) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

''(3) CIGARETTE AND OTHER TOBACCO PRODUCT CONSTITUENTS.—In addition to the disclosures required by paragraph (1), the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product constituent including any smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act.

''(4) RETAILERS.—This subsection applies to a retailer only if that retailer is responsible for or directs the label statements required under this section.''.

TITLE III—PREVENTION OF ILLICIT TRADE IN TOBACCO PRODUCTS

SEC. 301. LABELING, RECORDKEEPING, RECORDS INSPECTION.

Chapter IX of the Federal Food, Drug, and Cosmetic Act, as added by section 101, is further amended by adding at the end the following:

''SEC. 920. LABELING, RECORDKEEPING, RECORDS INSPECTION.

''(a) ORIGIN LABELING.—

''(1) REQUIREMENT.—Beginning 1 year after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the label, packaging, and shipping containers of tobacco products other than cigarettes for introduction or delivery for introduction into interstate commerce in the United States shall bear the statement 'sale only allowed in the United States'. Beginning 15 months after the issuance of the regulations required by section 4(d) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 201 of Family Smoking Prevention and Tobacco Control Act, the label, packaging, and shipping containers of cigarettes for introduction or delivery for introduction into interstate commerce in the United States shall bear the statement 'Sale only allowed in the United States'.

''(2) EFFECTIVE DATE.—The effective date specified in paragraph (1) shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with such paragraph.

''(b) REGULATIONS CONCERNING RECORDKEEPING FOR TRACKING AND TRACING.—

''(1) IN GENERAL.—The Secretary shall promulgate regulations regarding the establishment and maintenance of records by any person who manufactures, processes, transports, distributes, receives, packages, holds, exports, or imports tobacco products.

''(2) INSPECTION.—In promulgating the regulations described in paragraph (1), the Secretary shall consider which records are needed for inspection to monitor the movement of tobacco products from the point of manufacture through distribution to retail outlets to assist in investigating potential illicit trade, smuggling, or counterfeiting of tobacco products.

''(3) CODES.—The Secretary may require codes on the labels of tobacco products or other designs or devices for the purpose of tracking or tracing the tobacco product through the distribution system.

''(4) SIZE OF BUSINESS.—The Secretary shall take into account the size of a business in promulgating regulations under this section.

''(5) RECORDKEEPING BY RETAILERS.—The Secretary shall not require any retailer to maintain records relating to individual purchasers of tobacco products for personal consumption.

''(c) RECORDS INSPECTION.—If the Secretary has a reasonable belief that a tobacco product is part of an illicit trade or smuggling or is a counterfeit product, each person who manufactures, processes, transports, distributes, receives, holds, packages, exports, or imports tobacco products shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, at reasonable times and within reasonable limits and in a reasonable manner, upon the presentation of appropriate credentials and a written notice to such person, to have access to and copy all records (including financial records) relating to such article that are needed to assist the Secretary in investigating potential illicit trade, smuggling, or counterfeiting of tobacco products. The Secretary shall not authorize an officer or employee of the government of any of the several States to exercise authority under the preceding sentence on Indian country without the express written consent of the Indian tribe involved.

''(d) KNOWLEDGE OF ILLEGAL TRANSACTION.—

''(1) NOTIFICATION.—If the manufacturer or distributor of a tobacco product has knowledge which reasonably supports the conclusion that a tobacco product manufactured or distributed by such manufacturer or distributor that has left the control of such person may be or has been—

''(A) imported, exported, distributed, or offered for sale in interstate commerce by a person without paying duties or taxes required by law; or

''(B) imported, exported, distributed, or diverted for possible illicit marketing,

the manufacturer or distributor shall promptly notify the Attorney General and the Secretary of the Treasury of such knowledge.

''(2) KNOWLEDGE DEFINED.—For purposes of this subsection, the term 'knowledge' as applied to a manufacturer or distributor means—

''(A) the actual knowledge that the manufacturer or distributor had; or

''(B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.

''(e) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Attorney General of the United States and the Secretary of the Treasury, as appropriate.''.

SEC. 302. STUDY AND REPORT.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of cross-border trade in tobacco products to—

(1) collect data on cross-border trade in tobacco products, including illicit trade and trade of counterfeit tobacco products and make recommendations on the monitoring of such trade;

(2) collect data on cross-border advertising (any advertising intended to be broadcast, transmitted, or distributed from the United States to another country) of tobacco products and make recommendations on how to prevent or eliminate, and what technologies could help facilitate the elimination of, cross-border advertising; and

(3) collect data on the health effects (particularly with respect to individuals under 18 years of age) resulting from cross-border trade in tobacco products, including the health effects resulting from—

(A) the illicit trade of tobacco products and the trade of counterfeit tobacco products; and

(B) the differing tax rates applicable to tobacco products.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the study described in subsection (a).

(c) DEFINITION.—In this section:

(1) The term ''cross-border trade'' means trade across a border of the United States, a State or Territory, or Indian country.

(2) The term ''Indian country'' has the meaning given to such term in section 1151 of title 18, United States Code.

(3) The terms ''State'' and ''Territory'' have the meanings given to those terms in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

DIVISION B—FEDERAL RETIREMENT REFORM ACT

SEC. 100. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Federal Retirement Reform Act of 2009''.

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

DIVISION B—FEDERAL RETIREMENT REFORM ACT

Sec. 100. Short title; table of contents.

TITLE I—PROVISIONS RELATING TO FEDERAL EMPLOYEES RETIREMENT

Sec. 101. Short title.
Sec. 102. Automatic enrollments and immediate employing agency contributions.
Sec. 103. Qualified Roth contribution program.
Sec. 104. Authority to establish mutual fund window.
Sec. 105. Reporting requirements.
Sec. 106. Acknowledgment of risk.
Sec. 107. Subpoena authority.
Sec. 108. Amounts in Thrift Savings Funds subject to legal proceedings.
Sec. 109. Accounts for surviving spouses.
Sec. 110. Treatment of members of the uniformed services under the Thrift Savings Plan.

TITLE II—SPECIAL SURVIVOR INDEMNITY ALLOWANCE FOR SURVIVING SPOUSES OF ARMED FORCES MEMBERS

Sec. 201. Increase in monthly amount of special survivor indemnity allowance for widows and widowers of deceased members of the Armed Forces affected by required Survivor Benefit Plan annuity offset for dependency and indemnity compensation.

TITLE I—PROVISIONS RELATING TO FEDERAL EMPLOYEES RETIREMENT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Thrift Savings Plan Enhancement Act of 2009''.

SEC. 102. AUTOMATIC ENROLLMENTS AND IMMEDIATE EMPLOYING AGENCY CONTRIBUTIONS.

(a) IN GENERAL.—Section 8432(b) of title 5, United States Code, is amended by striking paragraphs (2) through (4) and inserting the following:

''(2)(A) The Executive Director shall by regulation provide for an eligible individual to be automatically enrolled to make contributions under subsection (a) at the default percentage of basic pay.

''(B) For purposes of this paragraph, the default percentage shall be equal to 3 percent or such other percentage, not less than 2 percent nor more than 5 percent, as the Board may prescribe.

''(C) The regulations shall include provisions under which any individual who would otherwise be automatically enrolled in accordance with subparagraph (A) may—

''(i) modify the percentage or amount to be contributed pursuant to automatic enrollment, effective not later than the first full pay period following receipt of the election by the appropriate processing entity; or

''(ii) decline automatic enrollment altogether.

''(D)(i) Except as provided in clause (ii), for purposes of this paragraph, the term 'eligible individual' means any individual who, after any regulations under subparagraph (A) first take effect, is appointed, transferred, or reappointed to a position in which that individual becomes eligible to contribute to the Thrift Savings Fund.

''(ii) Members of the uniformed services shall not be eligible individuals for purposes of this paragraph.

''(E) Sections 8351(a)(1), 8440a(a)(1), 8440b(a)(1), 8440c(a)(1), 8440d(a)(1), and 8440e(a)(1) shall be applied in a manner consistent with the purposes of this paragraph.''.

(b) TECHNICAL AMENDMENT.—Section 8432(b)(1) of title 5, United States Code, is amended by striking the parenthetical matter in subparagraph (B).

SEC. 103. QUALIFIED ROTH CONTRIBUTION PROGRAM.

(a) IN GENERAL.—Subchapter III of chapter 84 of title 5, United States Code, is amended by inserting after section 8432c the following:

''§ 8432d. Qualified Roth contribution program

''(a) DEFINITIONS.—For purposes of this section—

''(1) the term 'qualified Roth contribution program' means a program described in paragraph (1) of section 402A(b) of the Internal Revenue Code of 1986 which meets the requirements of paragraph (2) of such section; and

''(2) the terms 'designated Roth contribution' and 'elective deferral' have the meanings given such terms in section 402A of the Internal Revenue Code of 1986.

''(b) AUTHORITY TO ESTABLISH.—The Executive Director shall by regulation provide for the inclusion in the Thrift Savings Plan of a qualified Roth contribution program, under such terms and conditions as the Board may prescribe.

''(c) REQUIRED PROVISIONS.—The regulations under subsection (b) shall include—

''(1) provisions under which an election to make designated Roth contributions may be made—

''(A) by any individual who is eligible to make contributions under section 8351, 8432(a), 8440a, 8440b, 8440c, 8440d, or 8440e; and

''(B) by any individual, not described in subparagraph (A), who is otherwise eligible to make elective deferrals under the Thrift Savings Plan;

''(2) any provisions which may, as a result of enactment of this section, be necessary in order to clarify the meaning of any reference to an 'account' made in section 8432(f), 8433, 8434(d), 8435, 8437, or any other provision of law; and

''(3) any other provisions which may be necessary to carry out this section.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8432c the following:

''8432d. Qualified Roth contribution program.''.

SEC. 104. AUTHORITY TO ESTABLISH MUTUAL FUND WINDOW.

(a) IN GENERAL.—Section 8438(b)(1) of title 5, United States Code, is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period and inserting ''; and''; and

(3) by adding after subparagraph (E) the following:

''(F) a service that enables participants to invest in mutual funds, if the Board authorizes the mutual fund window under paragraph (5).''.

(b) REQUIREMENTS.—Section 8438(b) of title 5, United States Code, is amended by adding at the end the following:

''(5)(A) The Board may authorize the addition of a mutual fund window under the Thrift Savings Plan if the Board determines that such addition would be in the best interests of participants.

''(B) The Board shall ensure that any expenses charged for use of the mutual fund window are borne solely by the participants who use such window.

''(C) The Board may establish such other terms and conditions for the mutual fund window as the Board considers appropriate to protect the interests of participants, including requirements relating to risk disclosure.

''(D) The Board shall consult with the Employee Thrift Advisory Council (established under section 8473) before authorizing the addition of a mutual fund window or establishing a service that enables participants to invest in mutual funds.''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 8438(d)(1) of title 5, United States Code, is amended by inserting ''and options'' after ''investment funds''.

SEC. 105. REPORTING REQUIREMENTS.

(a) ANNUAL REPORT.—The Board shall, not later than June 30 of each year, submit to Congress an annual report on the operations of the Thrift Savings Plan. Such report shall include, for the prior calendar year, information on the number of participants as of the last day of such prior calendar year, the median balance in participants' accounts as of such last day, demographic information on participants, the percentage allocation of amounts among investment funds or options, the status of the development and implementation of the mutual fund window, the diversity demographics of any company, investment adviser, or other entity retained to invest and manage the assets of the Thrift Savings Fund, and such other information as the Board considers appropriate. A copy of each annual report under this subsection shall be made available to the public through an Internet website.

(b) REPORTING OF FEES AND OTHER INFORMATION.—

(1) IN GENERAL.—The Board shall include in the periodic statements provided to participants under section 8439(c) of title 5, United States Code, the amount of the investment management fees, administrative expenses, and any other fees or expenses paid with respect to each investment fund and option under the Thrift Savings Plan. Any such statement shall also provide a statement notifying participants as to how they may access the annual report described in subsection (a), as well as any other information concerning the Thrift Savings Plan that might be useful.

(2) USE OF ESTIMATES.—For purposes of providing the information required under this subsection, the Board may provide a reasonable and representative estimate of any fees or expenses described in paragraph (1) and shall indicate any such estimate as being such an estimate. Any such estimate shall be based on the previous year's experience.

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

(1) the term ''Board'' has the meaning given such term by 8401(5) of title 5, United States Code;

(2) the term ''participant'' has the meaning given such term by section 8471(3) of title 5, United States Code; and

(3) the term ''account'' means an account established under section 8439 of title 5, United States Code.

SEC. 106. ACKNOWLEDGMENT OF RISK.

(a) IN GENERAL.—Section 8439(d) of title 5, United States Code, is amended—

(1) by striking the matter after ''who elects to invest in'' and before ''shall sign an acknowledgment'' and inserting ''any investment fund or option under this chapter, other than the Government Securities Investment Fund,''; and

(2) by striking ''either such Fund'' and inserting ''any such fund or option''.

(b) COORDINATION WITH PROVISIONS RELATING TO FIDUCIARY RESPONSIBILITIES, LIABILITIES, AND PENALTIES.—Section 8477(e)(1)(C) of title 5, United States Code, is amended—

(1) by redesignating subparagraph (C) as subparagraph (C)(i); and

(2) by adding at the end the following:

''(ii) A fiduciary shall not be liable under subparagraph (A), and no civil action may be brought against a fiduciary—

''(I) for providing for the automatic enrollment of a participant in accordance with section 8432(b)(2)(A);

''(II) for enrolling a participant in a default investment fund in accordance with section 8438(c)(2); or

''(III) for allowing a participant to invest through the mutual fund window or for establishing restrictions applicable to participants' ability to invest through the mutual fund window.''.

SEC. 107. SUBPOENA AUTHORITY.

(a) IN GENERAL.—Chapter 84 of title 5, United States Code, is amended by inserting after section 8479 the following:

''§ 8480. Subpoena authority

''(a) In order to carry out the responsibilities specified in this subchapter and subchapter III of this chapter, the Executive Director may issue subpoenas commanding each person to whom the subpoena is directed to produce designated books, documents, records, electronically stored information, or tangible materials in the possession or control of that individual.

''(b) Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any individual, domestic or foreign corporation or upon a partnership or other unincorporated association for such production.

''(c) When a person fails to obey a subpoena issued under this section, the district court of the United States for the district in which the investigation is conducted or in which the person failing to obey is found, shall on proper application issue an order directing that person to comply with the subpoena. The court may punish as contempt any disobedience of its order.

''(d) The Executive Director shall prescribe regulations to carry out subsection (a).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8479 the following:

''8480. Subpoena authority.''.

SEC. 108. AMOUNTS IN THRIFT SAVINGS FUNDS SUBJECT TO LEGAL PROCEEDINGS.

Section 8437(e)(3) of title 5, United States Code, is amended in the first sentence by striking ''or relating to the enforcement of a judgment for the physically, sexually, or emotionally abusing a child as provided under section 8467(a)'' and inserting ''the enforcement of an order for restitution under section 3663A of title 18, forfeiture under section 8432(g)(5) of this title, or an obligation of the Executive Director to make a payment to another person under section 8467 of this title''.

SEC. 109. ACCOUNTS FOR SURVIVING SPOUSES.

Section 8433(e) of title 5, United States Code, is amended—

(1) by inserting ''(1)'' after ''(e)''; and

(2) by adding at the end the following:

''(2) Notwithstanding section 8424(d), if an employee, Member, former employee, or former Member dies and has designated as sole or partial beneficiary his or her spouse at the time of death, or, if an employee, Member, former employee, or former Member, dies with no designated beneficiary and is survived by a spouse, the spouse may maintain the portion of the employee's or Member's account to which the spouse is entitled in accordance with the following terms:

''(A) Subject to the limitations of subparagraph (B), the spouse shall have the same withdrawal options under subsection (b) as the employee or Member were the employee or Member living.

''(B) The spouse may not make withdrawals under subsection (g) or (h).

''(C) The spouse may not make contributions or transfers to the account.

''(D) The account shall be disbursed upon the death of the surviving spouse. A beneficiary or surviving spouse of a deceased spouse who has inherited an account is ineligible to maintain the inherited spousal account.

''(3) The Executive Director shall prescribe regulations to carry out this subsection.''.

SEC. 110. TREATMENT OF MEMBERS OF THE UNIFORMED SERVICES UNDER THE THRIFT SAVINGS PLAN.

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

(1) members of the uniformed services should have a retirement system that is at least as generous as the one which is available to Federal civilian employees; and

(2) Federal civilian employees receive matching contributions from their employing agencies for their contributions to the Thrift Savings Fund, but the costs of requiring such a matching contribution from the Department of Defense could be significant.

(b) REPORTING REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall report to Congress on—

(1) the cost to the Department of Defense of providing a matching payment with respect to contributions made to the Thrift Savings Fund by members of the Armed Forces;

(2) the effect that requiring such a matching payment would have on recruitment and retention; and

(3) any other information that the Secretary of Defense considers appropriate.

TITLE II—SPECIAL SURVIVOR INDEMNITY ALLOWANCE FOR SURVIVING SPOUSES OF ARMED FORCES MEMBERS

SEC. 201. INCREASE IN MONTHLY AMOUNT OF SPECIAL SURVIVOR INDEMNITY ALLOWANCE FOR WIDOWS AND WIDOWERS OF DECEASED MEMBERS OF THE ARMED FORCES AFFECTED BY REQUIRED SURVIVOR BENEFIT PLAN ANNUITY OFFSET FOR DEPENDENCY AND INDEMNITY COMPENSATION.

(a) PAYMENT AMOUNT PER FISCAL YEAR.—Paragraph (2) of section 1450(m) of title 10, United States Code, is amended—

(1) in subparagraph (E), by striking ''and'' after the semicolon; and

(2) by striking subparagraph (F) and inserting the following new subparagraphs:

''(F) for months during fiscal year 2014, $150;

''(G) for months during fiscal year 2015, $200;

''(H) for months during fiscal year 2016, $275; and

''(I) for months during fiscal year 2017, $310.''.

(b) DURATION.—Paragraph (6) of such section is amended—

(1) by striking ''February 28, 2016'' and inserting ''September 30, 2017''; and

(2) by striking ''March 1, 2016'' both places it appears and inserting ''October 1, 2017''.

MOTION OFFERED BY MR. WAXMAN

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Waxman moves that the House concur in the Senate amendment.

The SPEAKER pro tempore. Pursuant to House Resolution 532, the motion shall be debatable for 1 hour, equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce.

The gentleman from California (Mr. WAXMAN) and the gentleman from Indiana (Mr. BUYER) each will control 30 minutes.

The Chair recognizes the gentleman from California.

Mr. WAXMAN. Madam Speaker, I yield myself such time as I may consume.

It is hard to believe that we have finally reached this day. After more than a decade of effort and with countless delays and defeats along the way, at last we are about to enact truly historic legislation to protect the public health and to end the tobacco epidemic.

I am proud that we have made it to this point, but it has taken us far too long. It has been more than 45 years since the landmark Surgeon General report that found that cigarette smoking was responsible for a 70 percent increase in the mortality rate of smokers over nonsmokers and a 10 to 20 times greater risk of developing lung cancer. Forty-five years. That delay is a tragic testament to the power and influence of Big Tobacco in our country and on Congress. But that power is fading. Times have changed. Public opinion has changed. And the tobacco industry's ability to block essential public health legislation has come to an end.

Today is a day when strong and effective regulation finally is established as the crucial counterweight to the efforts and even deceptive practices of this industry. This is the day when Americans can begin to truly kick the habit with the full force of our laws marshaled to protect consumers, and especially our young people.

Many of us remember vividly the milestones that have led us to this moment. In 1994, tobacco executives stood up before my subcommittee and swore under oath that nicotine was not addictive. In 1996, the FDA tried to regulate tobacco products, but the Supreme Court told them they needed Congress to give them that specific legal authority. And now, 13 years later, here we are finally giving FDA that authority to regulate the leading preventable cause of death in America.

Regulating tobacco is the single most important thing that we can do right now to curb this deadly toll. And FDA is the only agency with the right combination of scientific expertise, regulatory experience, and public health mission to oversee these products effectively.

I am pleased that the Senate acted quickly and sent us back legislation nearly identical to what we passed 2 months ago with overwhelming support in this House. This legislation will direct FDA to end marketing and sales of tobacco to kids, to stop manufacturers from calling cigarettes ''light'' or ''less dangerous'' when they're not, and to require changes to what is in a cigarette, like toxic ingredients such as formaldehyde, benzene, radioactive elements, and other deadly chemicals.

Some have objected that this bill is too big a challenge for an already overburdened FDA. I disagree. It's clear to me that FDA's recent struggles are primarily a result of years of chronic underfunding and a failure of leadership in the last administration.

This history does not mean that FDA, with the strong and committed leadership it now has, cannot take on this critical role of protecting the country against the harm from cigarettes and other tobacco products. It simply means that when we give the agency this new responsibility, we must also give it the resources necessary to do the job and to do it well.

We have ensured that this will happen. The tobacco program will be fully funded through new user fees paid for by the industry. That money will go exclusively to the new tobacco center and will be enough for FDA to handle this task well. Furthermore, by setting up this system, we have ensured that the new tobacco program will have no impact on other vital programs at FDA. In fact, the agency's new commissioner, Dr. Margaret Hamburg, has expressed her enthusiastic support for the bill as a ''major advance in protecting the public health.''

In a recent letter to Senator KENNEDY about this legislation, Commissioner Hamburg made clear that FDA is eager to begin carrying out its new responsibilities under this law. President Obama has also praised this legislation as both historic and common sense, describing it as an integral part of his plan to protect America's children and reform our health care system. It's clear that this administration and FDA itself are more than ready to take this on, and we just need to give them the law that will allow them to begin.

In the bill, we have provided everything necessary to take this historic step: a comprehensive and flexible set of new authorities and full, certain funding. The final ingredient is the political will to do the right thing. For the first time in many years, we have finally got that, too.

The breadth of support for this bill is remarkable; it includes over 1,000 medical, public health, faith and community groups from AARP to the American Academy of Pediatrics, from the Southern Baptist Convention to the Islamic Society of North America. It is supported by the American Lung Association, the American Heart Association, the American Cancer Society, the groups that are best situated to understand the damage caused by tobacco and to recognize that a renewed FDA can and must take on this new authority.

The diversity of support for this bill shows just how critical it is to all Americans. Tobacco does not discriminate when it robs people of their health, their productivity, and their lives. That is why we must come together to rob tobacco of its influence over Americans.

Finally, I want to note that this bill reflects a number of changes made throughout the process to respond to specific concerns that we've heard. In committee consideration of this bill over the past 2 years, we made changes to ensure fairness and flexibility for convenience stores, tobacco growers, and small manufacturers. We worked with Republican colleagues to incorporate their suggestions. We worked with members of the Congressional Black Caucus to ensure that menthol cigarettes will be an early focus of attention by the agency, and that the agency has the authority to deal with these and other products.

I know that the Senate also has made changes to further strengthen the bill in response to input from both sides of the aisle. I want to thank my colleague, Representative TODD PLATTS, for his strong leadership on this legislation, as well as Representatives JOHN DINGELL and FRANK PALLONE for their diligent work in moving this bill forward over the years.

I also want to thank Representatives ED TOWNS, STEPHEN LYNCH and IKE SKELTON, all of whom were critical in getting us to this point. Each of these individuals made this possible and produced a great victory for public health.

Today is a tremendous day. I am proud to be part of this historic moment when Congress finally stands up to Big Tobacco and stands up for the health of all Americans. That is the task before us as we send this bill on to the President of the United States.

Madam Speaker, I wish to reserve the balance of my time.

Mr. BUYER. Madam Speaker, I yield myself such time as I may consume.

I would like to congratulate HENRY WAXMAN and Senator KENNEDY and others with regard to their tenacity and persistence over the years. What is unfortunate is that we were not able to incorporate harm reduction strategies. It is also unfortunate that we are continuing to place more burdens and responsibilities upon FDA.

What I had sought to do is to regulate tobacco. I do not smoke, I do not encourage anyone to smoke. The health risks associated with smoking, I believe people recognize them and are cognizant.

Tobacco is an adult product. It's legal. And we are faced with this question of moralism versus pragmatism. And you have to be careful when you go down this path in weighing the balance of moralism versus pragmatism. So what I had sought to do was choose the pragmatic side of the equation and to incorporate a harm reduction strategy with the abstinence approach in the Kennedy-Waxman legislation.

While the authors of the bill, Madam Speaker, would say, Well, STEVE, we have harm reduction in the bill. Well, it is mentioned in the bill, but there is a 2-tier standard in the bill that has been cleverly written in a manner to be an entry barrier to new innovative tobacco products. And that 2-tier standard is one that first must be achieved at the individual level, and then you must achieve this standard at the public at large. And the purpose is truly an entry barrier.

Now, if we wanted to work together and truly have a new scientific, pragmatic approach to improve the public health of our country, we would be doing both; we would be doing abstinence along with harm reduction. You see, that's exactly what HENRY WAXMAN and others in this body do when it comes to teenage sex. They say, okay, by this body, Democrats and Republicans enjoin, we have both; we promote abstinence while also we have policies that promote harm reduction in our efforts to lower sexually transmitted diseases.

With regard to HIV, there are needle-exchange programs while we also try to promote abstinence. But all of a sudden now, when it comes to tobacco, approaches that we take in other forms of public health, whether it's in sanitary issues or whether it's in teenage sex issues or in HIV issues, all of a sudden we don't want to apply it to tobacco. It is a curious thing for me that we don't want to apply harm reduction strategies to tobacco.

So I would say to my good friend, Mr. WAXMAN, I think where we are is that you can have your day in the light, you have earned it, but we are going to have to come back to the table because what we have done is we have locked down the marketplace. You have given a big checkmark to Phillip Morris and said that your market share is okay. And when you lock down the marketplace, and we then stifle innovation and we do not have competition in that marketplace, we truly don't have the ability, then, for these companies to track at-risk capital to make investments in a harm reduction strategy whereby we can migrate people down the continuum of risk.

□ 1030

So if this bill becomes law, we've got some real challenges in front of us. One of them is how do we stand up this new mission within FDA, an agency that is already very stressed and underresourced, and we're already going to be addressing issues in the committee regarding food safety and drug safety while we pile on more missions.

So I would say to my good friend that as soon as this bill is signed into law, a couple of things are going to happen. Number one, the lawyers will make a run to the Federal courts, and the Supreme Court will be back sitting in judgment over the provisions on advertising restrictions, not only potential unconstitutional provisions on the First Amendment with regard to the regulation of commercial speech, but also in the Fifth Amendment with regard to whether it's a constitutional taking or not.

So while that is going on, I will introduce legislation, I'll work with Ms. HARMAN, I'll work with others, I'll work with the chairman, on how we can best incorporate these harm-reduction strategies to truly improve public health.

Madam Speaker, I embrace the sincerity of Mr. WAXMAN and Mr. KENNEDY that they truly want to improve public health in the country, but this legislation, when we lock ourselves down to only what is presently available and that these nicotine replacement therapies only have a 7 percent success rate, I don't believe anyone here would endorse a 7 percent success rate as a good thing. It's failure. So we are going to have to go back to the drawing board here and figure out how we do a harm-reduction strategy to improve public health.

Madam Speaker, I reserve the balance of my time.

Mr. WAXMAN. Madam Speaker, I want to inform my colleagues that there is a section in this bill that gives the FDA authority to develop harm-reduction strategies, and I think that's where it ought to be, in the hands of people who will follow the science in order to protect the public health.

Madam Speaker, I yield, at this time, 2 minutes to the chairman of our Health Subcommittee of the Energy and Commerce Committee, who has been a staunch supporter of this legislation and has looked after all the health matters that come before the Congress, the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. I want to thank Chairman WAXMAN for his tireless work on this tobacco legislation. Madam Speaker, today is long overdue, and he should be so proud of the fact that this is finally passing today and going to the President's desk.

As we pursue serious and historical health care reform, this legislation comes at the right time. Smoking kills. Smoking also is a major cause of cardiovascular disease, cancer, and a host of other illnesses. Almost half a million Americans die from their own cigarette smoking a year. And even more alarming, studies have estimated that more than 6 million children alive today will ultimately die from smoking.

In President Obama's call for health care reform, he cited the need to use our resources wisely and efficiently. Tobacco is a health care issue that taxes and burdens our health care system. The costs to private and public payers are over $96 billion annually. Regulating tobacco products is a win-win for our Nation's health and our need to be fiscally responsible in a time of economic hardship.

This bill will finally give the FDA the authority to regulate tobacco products, restrict tobacco marketing, especially the marketing techniques designed to entice and addict our children. They are vulnerable and impressionable, and the tobacco industry exploits that.

I was proud to be an original cosponsor of this bill in the House, and I'm even prouder to vote for this bill today because I know that it is long overdue.

Mr. BUYER. Madam Speaker, I yield myself 30 seconds to respond to my good friend Mr. WAXMAN.

To say that harm-reduction strategies are best left to the FDA gives me great concern. If you truly believe that, then you should have never set a 2-tiered standard and built a paradigm in which they are to make judgments, if you truly believe that they're the ones who should have designed the strategies to improve public health. So I would be more than happy to work with the gentleman to repeal the 2-tiered standard if we're going to let them set the standard based on sound science to improve public health.

Madam Speaker, I now yield 2 minutes to the gentleman from Pennsylvania (Mr. PLATTS).

Mr. PLATTS. I appreciate the gentleman's yielding time to me, especially given that we have different views on this piece of legislation.

Madam Speaker, I rise in strong support of H.R. 1256, the Family Smoking Prevention and Tobacco Control Act. I appreciate the Senate's swift consideration of this bill. After many years of consideration, I'm pleased that this important public health legislation will finally be signed into law.

As one of the deadliest products on the market, tobacco must be subject to the same serious regulation and oversight that most other products consumed by Americans are subject to. This bill will help to ensure that Americans are fully aware of the harmful effects posed by tobacco products.

Most importantly, this legislation will ensure that tobacco products are not advertised to or sold to children. Addiction to tobacco begins almost universally in childhood and adolescence. Tobacco companies have long taken advantage of this vulnerability by promoting their products through such tactics as cartoon advertisements, free tobacco-themed merchandise that appeals to kids, and sponsorship of sporting and entertainment events. With health care costs spiraling out of control every year, the cost of treating these smokers later in life is fast becoming prohibitively expensive. Prohibiting advertising to children will go a long way in preventing young people in America from starting to smoke and will save billions of dollars and, most importantly, countless lives in the years to come.

It is important to emphasize that this bill does not ban tobacco products. Rather, H.R. 1256 allows the FDA to scientifically evaluate the health benefits and risks posed by ingredients in cigarettes and takes steps to reduce the harm caused by tobacco products. This legislation preserves an adult's choice to smoke and makes sure that tobacco products marketed as safe alternatives to cigarettes are, in fact, scientifically safer.

I am pleased to have worked with my colleague, the distinguished chairman of the House Energy and Commerce Committee, HENRY WAXMAN, the gentleman from California, on this legislation. I commend him for his leadership on this issue as well as former Congressman Tom Davis.

I encourage a ''yes'' vote.

Mr. BUYER. Madam Speaker, I yield myself such time as I may consume.

It is nicotine that causes the consumption of tobacco. So I understand how truly, in my words, outraged then Chairman WAXMAN was and still is with regard to testimony that occurred years ago when he was the chairman of the Subcommittee on Health.

Now, if it is the nicotine from which adult users receive their satisfaction, the real issue is how do they gain access to nicotine in a manner that reduces their health risk? That's the issue. That's my passion.

I am not a smoker. I don't advocate for people to smoke. My charge and challenge is how do we improve public health in our country? And I don't want this abstinence-only approach. So if it's nicotine for which people want to gain access to and it's an adult product, then shouldn't we be trying to figure out methods or products where people can gain access to nicotine that is less harmful?

During the debate on the rule, Madam Speaker, I would share to my colleague, Chairman WAXMAN, an individual brought up a head of lettuce and said that there is more regulation on a head of lettuce than tobacco. And I guess it was an effort to be cute, but the real point here is what I shared, Madam Speaker, and to my friend Mr. WAXMAN, you could have smoked that lettuce and you would still end up with the same problems. You could cut the grass in your yard, dry it and roll it up in a cigarette and smoke it, and you're still going to have a lot of problems. It is the smoke that kills, not the nicotine. It's the smoke.

So when you look and you say, well, if the smoke is the killer because of the inhalation of the tobacco smoke, that's responsible for the pandemic of cancers, heart disease, respiratory disease, and these deadly results.

So I'm going back to this harm reduction. So despite decades of intense efforts to eradicate smoking, more than 40 million adults continue to smoke cigarettes, and they're likely to continue because we don't have this ability to migrate them to other products. It's extremely important, when we talk about a harm-reduction strategy, that not only is it the access to a particular product, it is the education of the people at large as to what type of products that they can avail themselves to that have less harmful health results. That should be our goal and that has been embraced.

The American Association of Public Health Physicians noted last year, Enhancement of current policies based on the premise that all tobacco products are equally risky will yield only small and barely measurable reductions in tobacco-related illness and death.

So in the public debate, there is sort of this presumption that all tobacco products are harmful. Well, all tobacco products have a degree of health hazards, but some are more harmful than others. So cigar and pipe are not subject to this legislation; yet they are the most harmful to the human body of all of the carcinogens that can be inhaled.

So how do we migrate people? And I think that's what is extremely important. And let's stop this premise that all tobacco products are equally risky; that Swedish snus, even though it's 98 percent less harmful than an unfiltered cigarette, should not be treated as though they're both just as harmful. They're not. If you're able to pasteurize and take away the nitrosamines, yet people can gain access to their nicotine, you know what? That ought to be something we should talk about. That ought to be something we should promote.

And the reason, Madam Speaker, that if we just turn this over to the FDA, like Chairman WAXMAN has just suggested, and let them come up with these strategies, it's not going to be able to get into the hands of the American people because of the 2-tiered standard that has been set in this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. WAXMAN. Madam Speaker, I yield 3 minutes to my esteemed colleague from the State of Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. I thank the gentleman for yielding, my good friend and colleague of 34 years ago. We entered Congress together.

I do not propose to read this entire document, but it is the report of the hearings, the committee report conducted by my predecessor in Congress, John Blatnik, in 1957 on false and misleading advertising among a number of products and the failure of the Federal Trade Commission to intervene on behalf of the public.

The leading testimony on false and misleading advertising on filter-tipped cigarettes was a statement of Dr. Kyler Hammond, Director of Statistical Research for the American Cancer Society: We found lung cancer death rates to be extremely low among nonsmokers and high among heavy cigarette smokers; 2,665 excess deaths, and this was 1957, among smokers. The conclusion of Dr. Hammond: The sum total of scientific evidence establishes beyond reasonable doubt that cigarette smoking is a causative factor in the rapidly increasing incidence of human epidermoid carcinoma of the lung.

Fifty-two years ago and we still have people in this Chamber and in the other body saying it's not a problem.

□ 1045

The report of the committee goes on to say, Benzpyrene is one of the substances containing carcinogenic agents. A known cancer-producing agent has been found in the smoke from cigarette paper and an amount from the tobacco itself. This component is known as 3,4-benzpyrene.

The report of the committee concludes:

The cigarette manufacturers have deceived the American public through their advertising of filter-tip cigarettes. Ironically, while denying the alleged health hazards of cigarette smoking, the industry has, in its advertising, made these charges appear true. Filter gives you more of what a filter is for, clean smoking; snowy white; pure; miracle tip; 20,000 filter traps, gives you more of what you changed to a filter for.

The committee concludes:

The Federal Trade Commission has failed to approach the problem of false and misleading advertising.

They failed then, 52 years ago. They failed us today. It is way long past time, many millions of deaths later, for this Congress to act decisively in the public interest. And also as a tribute to my predecessor, John Blatnik, who led this charge 52 years ago and who was rewarded with dissolution of his subcommittee for having rung the bell on false and misleading advertising by the cigarette companies.

Mr. WAXMAN. Madam Speaker, I am pleased at this time to yield to one of the people without whom this bill would not even be possible, and that is the Speaker of the House, NANCY PELOSI, who has been such a strong leader for advancing the public health.

The SPEAKER pro tempore. The gentlewoman from California is recognized for 1 minute.

Ms. PELOSI. Madam Speaker, I thank the gentleman for his generous recognition and rise to say, as a mother and a grandmother, what an important day this is for America's children and to say thank you to Mr. DINGELL. Some of the giants of the Congress have worked to help the children of America. Mr. DINGELL, Mr. WAXMAN, and Mr. PALLONE on the committee. On the Senate side, this legislation passing also is a real tribute to the leadership of Senator TED KENNEDY. It's really a great day. It's momentous. It's historic. We can't say that all the time about the legislation that we pass here. It would be impossible to exaggerate the importance of what is happening here today.

Today we have an opportunity to protect public health and prevent disease; and today we have an opportunity to honor our responsibility to our children, to protect them from the harm that can come to them from the use of tobacco.

Madam Speaker, tobacco is the number one cause of preventable deaths in the United States. According to the Centers for Disease Control, it is responsible for about one in five, or 443,000, deaths annually. Again, I want to acknowledge the great work of Chairman WAXMAN, Chairman DINGELL and Chairman PALLONE. We passed this bill before Easter. Happily last night, yesterday, it passed the Senate so that we can now pass the bill and send it to the President's desk for his signature.

Mr. OBERSTAR, in his role on Transportation and understanding how we

had to get smoking out of Transportation, spelled out for us what the study told us and how it has been 52 years since we should have taken action. There is so much support on the outside of the Congress as well. A thousand organizations, everyone from the American Cancer Society, which we would suspect, the Campaign For Tobacco-Free Kids, the AARP, and the Presbyterian Church, just to name a few. They believe that passing this bill will save lives.

Every day Americans benefit from the oversight of the FDA on foods that we eat and medicines we take. That's their jurisdiction. Yet despite the fact that tobacco is one of the deadliest products in America, the FDA has had no authority to regulate it. This is just not right, and today we can correct that wrong. Right now tobacco is exempt from standards that apply to a can of soda or a box of pasta. Tobacco makers are exempt from critical and basic consumer protections, such as ingredient disclosure, product testing and restrictions on marketing to children.

This legislation grants the FDA the authority to regulate tobacco products. It also requires detailed disclosure of tobacco product ingredients and restricts tobacco marketing and sales to young people, among other things. And this legislation does all of this in a fiscally responsible way, funding the FDA tobacco activity through a user fee on tobacco manufacturers.

Because of lost productivity and health care expenditures, cigarette smoking costs our Nation more than $193 billion a year, almost $200 billion a year. By reducing the number of smokers, not only will this legislation save lives and reduce chronic disease, it will also reduce health care costs.

Today, approximately 3,500 young people will try a cigarette for the first time and another 1,000 will become addicted and become new regular, daily smokers. One-third of those children will eventually die prematurely because of smoking. We must do all that we can to prevent premature death from smoking, and today we have that opportunity.

Madam Speaker, I urge all of my colleagues to support the aptly named Family Smoking Prevention and Tobacco Control Act. I hope that the children of America will see a strong bipartisan vote. This legislation deserves it, and then we can send it on to the President to be signed into law hopefully no later than next week.

Again, Mr. DINGELL, as a mother and a grandmother, I'm deeply in your debt for what you're doing for America's children. Mr. WAXMAN, thank you so much for bringing this bill to the floor. We went into session in January. Before Easter this bill had passed the House. Thank you for your leadership. Mr. PALLONE was very much a part of it. Again, Mr. OBERSTAR, thank you for your leadership.

But let's just say about Senator KENNEDY, this has been part of his life's work. He's worked on this for a very long time, of itself, discretely, the tobacco and smoking issue and then, of course, just as with Mr. DINGELL, the larger health issue for America. Today in passing this legislation, enabling the FDA to regulate tobacco, we are taking a giant step forward in making America healthier. Thank you all for your leadership.

Mr. BUYER. Madam Speaker, I yield myself as much time as I may consume.

It is with great disappointment that I hear the words of the Speaker because she is truly endorsing a 7 percent success rate as an acceptable level of success for those who are trying to quit smoking. Also, if we really wanted to try to help children, then she should have endorsed what I sought to do; that is, put tobacco on an equal plain as alcohol to make it illegal to possess. But we're not doing that today.

I also said that the States, with regard to the MSA, the Master Settlement Agreement, the States are not spending the money like they should. In the last 10 years, States have spent just 3.2 percent of their tobacco-generated revenue on prevention and cessation programs. In the current fiscal year, no State is funding tobacco prevention programs at levels recommended by the CDC. So I had offered an opportunity here to the body to strengthen and truly protect children, yet it was not adopted by this body. So be very careful about coming to the floor and saying we're doing it for the children when, in fact, the opportunity was there and you did not.

I now yield 3 minutes to the gentleman from Texas (Mr. PAUL).

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. I thank the gentleman for yielding.

Madam Speaker, I don't think anybody can argue at all with the intentions of the proposal of this bill. There is no question that cigarettes are very harmful. The question for me here is the process, and I find the process here atrocious because it assumes that authoritarianism is right, proper and that it works and that volunteerism, education, self-reliance and depending on oneself to take care of oneself is a proper approach. We totally reject our free society and assume that if we just have tobacco police roaming the country, that all of a sudden bad habits are going to be cleared up. We're dealing with bad habits, and these are bad for health. But let me tell you, I can bring you a list here of dozens and dozens of bad habits that lead to death. As a matter of fact, one of the things that we ought to consider is, how many people die from our drug war? We have a drug war, and about 3,000 people die from the use of illegal drugs. So we have a drug war going on, and tens of thousands of people die.

It's so exasperating at times because we always have two proposals here, or we have two ways of solving problems or dealing with tobacco. For decades, what did we do? We subsidized tobacco, and now we want to prohibit tobacco. Why don't we just let the people decide. This whole idea of either having to subsidize something or prohibit something shows a shallowness that I think we ought to challenge.

One part of this bill that I find particularly bad, but it is pervasive in so much of what we do, about 100 years ago we took the First Amendment and freedom of speech and chopped it into two pieces. We have political speech. Of course we like that. We're in the business of politics. But we take commercial speech, and we put it over here, and we regulate the living daylights out of commercial speech. That's not a First Amendment. That's chopping freedom in half, and that just leads to more problems. But this will lead to prohibition, and it won't work. This will just give us a lot more trouble.

You say, Well, how will these problems be handled if we just permit people to advertise? Well, you are not allowed to commit fraud; you are not allowed to commit slander; you are not allowed to commit any libel or slander or fraud. So there are prohibitions. But this approach can't work. It is assumed that people are total idiots, that they won't respond to education, that we have to be the nanny state. We want to expand the war on drugs, which is a total failure.

And look at what happened to the prohibition of alcohol. You say, Well, no, this is not going to be a prohibition. It is going to be prohibition. This is a form of prohibition. When you have prohibition or even approach prohibition, what do you create? You create the black market. We will see the black market come. Already the taxes are opening up the doors of the black market.

All I ask for is people to reconsider, believe that freedom, self-reliance and individualism can solve these problems a lot better than a bunch of politicians, bureaucrats and tobacco police here from Washington, D.C.

Mr. BUYER. I yield myself 30 seconds.

I would say that the gentleman and I are not always in total agreement. The substitute that I brought to the floor actually sought to regulate tobacco, and I know you did not agree with my substitute. I believe in the regulation of tobacco. I sought to do that. I just don't believe it should be done in FDA. We tried to create a harm reduction center to do that. But I respect the gentleman's views.

I reserve the balance of my time.

Mr. WAXMAN. Madam Speaker, I am pleased at this time to yield 3 minutes to the very distinguished chairman emeritus of the Energy and Commerce Committee, the gentleman from Michigan (Mr. DINGELL), who has played an essential role in fighting against tobacco and getting us to this day today.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. I thank my good friend and colleague, the chairman of the committee, Mr. WAXMAN; and I commend him for his leadership on this matter. I am also delighted that we have this bill on the floor today. I urge my colleagues to support the Family Smoking Prevention and Tobacco Control Act. I would point out that we will be shortly following it up with legislation to protect Americans from dangerous foods and to give the Food and Drug Administration the authority and the money which it needs. That will be followed by additional legislation to address the question of pharmaceuticals.

I urge my colleagues to recognize that this not only does what needs doing, but it also gives to the Food and Drug Administration the authority and the money which it needs and the personnel which it needs to carry forward its mission as it goes about its business. I would point out, for too long we have starved them for authority, resources and personnel. It is time something be done about this. I am not going to give you an argument about this situation—that will be in my written extended remarks—but I want to tell my colleagues that the graveyards are full of people who occupy those places because they smoked and because we tried volunteerism.

□ 1100

Well, volunteerism filled the graveyards, and the constant attacks that have been made on the Food and Drug Administration and the deprival of proper authority to carry forward its responsibilities and the personnel it needs have brought us to the situation where we have to do the kind of thing that we are saying.

So don't talk to me about volunteerism. Understand that it has failed calamitously and people are dying every day because they have smoked.

Having said that, I want to tell you a little story about when we passed the first legislation to begin to warn people about the dangers of tobacco that were found by the Surgeon General in his report to the United States and to the Congress.

A little guy came before the committee, and he testified before my dear friend John Moss and I, who were the major proponents of that particular legislation at that time. He said, Now, you don't know me, but I am a pathologist and an internal medicine man. That means that I can tell you why you are going to die, or I can tell you why you did die.

He said, I don't have a prepared statement here today, but I do have a number of exhibits I would like to present to the committee.

So he reached in his briefcase and he pulled out a human lung. He said, Now, this is a normal person's human lung. It had a certain life to it.

The next exhibit he pulled out was one of a fellow who had died of squamous cancer. He said, These are squamous cells. It looked like a bowl of caviar, a painful way to go.

He then showed us the lung of somebody who had died of emphysema. It was white. It lacked life. He said, This man literally strangled because he did not have the ability to derive the oxygen from the air.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WAXMAN. I yield an additional 1 minute.

Mr. DINGELL. I thank the gentleman.

He pulled out another lung. He said, Now, this is the lung of a smoker. It was black, dirty and nasty, and you would not want to have it inside of you.

He said, Now, my message to the committee is very simple. If you smoke long enough, you are going to die of cancer of the lung or you are going to die of some other kind of ailment which is induced by your smoking, whether it is of the lung or whether it is of some other organ, including the mouth, the throat, or another part of the body as far away as the fingertips.

I just want my colleagues to understand, finally we are doing something. If a person wants to be silly enough to smoke, he can still do so; but he is going to get a warning, and the tobacco companies are going to have to provide proper, decent, honorable behavior, and they are going to have to do the things that warn the American people of this.

We have a responsible agency which this legislation will properly fund and finance. We will give them the authority and the personnel and the capabilities of doing what they need to do. We are going to follow it with other legislation.

I urge my colleagues to support this and support the other legislation when it comes.

I rise today in strong support of the Senate Amendment to H.R. 1256, "Family Smoking Prevention and Tobacco Control Act".

The decision to vote in favor of today's bill is a very easy one. It was an easy one, because I am convinced that the "Family Smoking Prevention and Tobacco Control Act" will go a long way in regulating the most unregulated consumer product on the market today. A product which:

Is the leading preventable cause of death in the United States;

Kills more than 400,000 Americans annually; and

Accounts for more than $96 billion in health care costs every year.

Every day, approximately 3,500 kids will try a cigarette for the first time, and another 1,000 we become new, regular habituate smokers.

The legislation will restrict marketing and sales to youth; grant FDA authority to restrict tobacco marketing; require detailed disclosure of ingredients; and allow FDA to require changes to tobacco products to protect the public health.

I commend Chairman WAXMAN and my dear friend, Senator KENNEDY, for their persistent leadership on this legislation in the Congress. I am honored to have my name associated with the legislation and for the opportunity I had to work with them on this issue.

Madam Speaker, I know firsthand that the "Family Smoking Prevention and Tobacco Control Act" is good piece of legislation. I had the distinct pleasure of shepherding it through the Energy and Commerce Committee last year. Today's legislation largely reflects the work we did then.

Madam Speaker, this legislation has been in the works for a long time. Nothing stands in our way to send it to the President's desk. I urge my colleagues to vote in favor of the "Family Smoking Prevention and Tobacco Control Act"—the American people need it and they deserve it.

Mr. BUYER. Madam Speaker, I now yield 2 minutes to the gentleman from California (Mr. MCCLINTOCK).

Mr. MCCLINTOCK. I thank the gentleman for yielding.

Madam Speaker, many years ago, author and commentator Bruce Herschensohn made the point that for every pleasure in life, there is a corresponding risk. I think that is a universal truth: for every pleasure in life, there is a corresponding risk.

And he pointed out it is true that with enough taxes and laws and restrictions and regulations and penalties and lectures, government can produce a virtually risk-free society, but it will also be one of the most colorless, pleasureless, tedious, and miserable societies ever conceived by the mind of man.

I think that is the case. The health dangers of smoking are real and they are well-documented. We all agree on that. It is a very bad thing to do.

Our schools rightly make a concerted effort to inform every child of the health risks associated with tobacco products, and they do a good job of it.

Our government warns every adult of the risks associated with tobacco products, and they do a good job of it, too.

As a result, I don't believe there is a single individual in the United States today who doesn't well and fully comprehend the health dangers of tobacco. But once those warnings are issued, how much further should government go to make individual decisions for rational adults as they weigh the risks of smoking for themselves? Personally, I think they are making a very bad decision, but they probably think others are making bad decisions when they decide to go skiing or bungee jumping or sky diving or thousands of other pleasures that incur corresponding and calculated risks.

I would ask today, whatever happened to the notion of individual responsibility? And whatever happened to the notion, as Jefferson put it, of a wise and frugal government, which shall restrain men from injuring one another, but shall leave them otherwise free to regulate their own pursuits of industry and improvement?

Mr. WAXMAN. Madam Speaker, I yield 2 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY), a member of the Health Subcommittee.

Ms. SCHAKOWSKY. Madam Speaker, I rise today in strong support of H.R. 1256, the Family Smoking Prevention and Tobacco Control Act. I do it with enormous gratitude to Chairman WAXMAN for working for years to get legislation of this sort that would improve public health by strengthening the regulation of tobacco products.

There are a lot of diseases that we don't have the cure for today. There are lots of resources put into medical research that hopefully will find a cure to cancer and to AIDS and other terrible diseases. But we do know how we can prevent over 435,000 tobacco-related deaths that occur each year, and that is by preventing smoking.

There are over 44 million smokers in the United States of America. In Illinois alone, 24.3 percent of adults and 29.2 percent of youth smoke tobacco. In Illinois, 16,000 people die from smoking-related illnesses and 29,000 adults and children die of secondhand smoke in Illinois. In addition, $3.2 billion is spent in direct medical expenditures related to smoking in Illinois. And every day 4,000 kids try their cigarette, and about half of them become addicted.

Finally, we have legislation giving the FDA the power and resources to regulate the tobacco industry and safeguard the public health and our children. It would lessen the cost of smoking-related medical illnesses and prevent adolescents and teens from smoking at a young age.

In Illinois, I want to congratulate Alexandra Slane, an elementary school student from Peoria, Illinois, who won the Tar Wars anti-smoking annual poster contest with her drawing of a light bulb shaped as a human head. She wrote the caption in the human-shaped light bulb warning America, ''Be Bright, Don't Light.''

Let's start by passing H.R. 1256.

Mr. WAXMAN. May I inquire how much time each side has.

The SPEAKER pro tempore. The gentleman from California has 9½ minutes remaining. The gentleman from Indiana has 10 minutes remaining.

Mr. WAXMAN. We have no other requests for speakers and I would like to close the debate. We continue to reserve our time.

Mr. BUYER. Madam Speaker, there are a couple of issues that I would like to address that I mentioned in my opening. The last two issues that I will address are, one, on the constitutionality, and, secondly, is the FDA the right agency.

While we all agree that steps need to be taken to help lessen the use of tobacco products by underage youth, we must not do so in ways that clearly violate the First Amendment. Unfortunately, the bill in front of us I believe fails to meet that test.

The speech restrictions in this bill are clearly the most sweeping in the history of the United States for any legal product. Numerous top legal experts from every point of the political spectrum have looked at these provisions and declared that they will not meet First Amendment scrutiny.

During the debate on the rule, I questioned the responsibility of this body. I believe it is irresponsible for us to pass legislation that is prima facie unconstitutional.

What we are doing in this body is two things: we are taking the regs from the 1996 rule that the Supreme Court found unconstitutional and we are making them statutory, which means, attention to lawyers in America: you have an access and avenue right back to Federal Court immediately upon the President's signature of this legislation.

Also under the Constitution, private speech, private speech and the regulation of private speech among individuals, that is, companies, if individuals seek to restrict their speech between themselves or how they seek to communicate, they can do that in the private marketplace between themselves. Where the First Amendment comes in is when governments, States, municipalities or the Federal Government then step in and begin to regulate speech.

In this case, it is commercial speech, and that is what we are doing. When we take the MSA, the master settlement agreement, and also place these restrictions and then make them statutory, bang, we are right back to the Supreme Court. And I just find that very bothersome.

Larry Tribe, the noted constitutional expert and Harvard University law professor, commenting on the types of provisions in this legislation, stated, ''Given the extensive regulation of tobacco manufacturing (for example, the creation of manufacturing standards, the regulation of cigarette ingredients, and so on) elsewhere in the proposed legislation, and the mandates for new and improved warnings, it would be difficult to defend the sweeping restrictions on advertising as being narrowly tailored to an important governmental interest. The paternalistic view that tobacco advertising must be restricted because consumers might find it pervasive is antithetical to the assumption on which the First Amendment is based.''

Wow. Now you are going to find me quoting the American Civil Liberties Union. You may want to listen to this, because it is probably the first time I have ever cited the ACLU.

They also said in their testimony on identical language contained in this legislation, they stated if this type of legislation were to be passed, it would be ''wholly unprecedented'' and ''will most likely fail to withstand constitutional challenge.''

On the other side of the spectrum, the Washington Legal Foundation and Judge Bork also have called these proposals ''patently unconstitutional.'' Numerous other legal scholars have taken similar positions.

Now, in our zeal here to restrict tobacco products, there have been these comments by some, Madam Speaker, to say we are doing it for the children. It is wonderful. We can say we are doing it for the children. What does the Court say about that?

The Supreme Court has already examined one of the provisions in the FDA proposal, and that is the 1,000 foot ban on outdoor adds, and has suggested it violates the First Amendment because it is not narrowly tailored.

The Supreme Court rejected the efforts of the Massachusetts Attorney General to ''childproof'' the flow of information in our society. Children deserve to be protected from inappropriate or harmful material, but the government may not use the guise of protecting children to impose sweeping restrictions on information intended for adults.

So we come to the floor and we say we are doing it for the children. Yet we are taking provisions which the Supreme Court has already found to be unconstitutional, i.e., commercial speech that is not merely tailored to a legitimate government interest.

In Bolger v. Youngs Drug Products Corporation, the court stated that efforts to restrict advertising cannot lower disclosure in society ''to the level of the sandbox,'' and cited in the case Butler v. Michigan that ''government may not reduce the adult population to reading only that which is fit for children.''

So the type of drastic speech censorship that is contained in this legislation is almost certain to lead to challenges in the Federal courts, and I find that troubling and counterproductive.

□ 1115

Let me move to the FDA. This bill establishes a general standard that actions by FDA are in the best interest of public health, that they're the ones, that they can reasonably be likely to have measured scientific results.

What do we mean by results?

Substantial reductions in morbidity and mortality rates among smokers. That's what we seek to achieve.

So the great challenge that I have here is that, in the committee, we are now looking at legislation with regard to food safety and drug safety. The FDA is charged with approving medical products based on scientific evidence that benefits of the products outweigh the risks. Tobacco products are inherently risk products that cause disease when used as directed.

Now, we're going to turn to the FDA and say, we want you to regulate the tobacco product. So we take the gold standard of the FDA now, and apply it to tobacco, and now there is this inference that somehow the FDA has said that tobacco's a safe product. That is something we should not be doing. It's why I sought to create a separate agency, rather than the FDA, creating a mission that is counter to their present mission.

You see, if you use a cigarette and follow the instructions, and you do

that every day, it will kill you. Now, think about that. It will kill you. We don't want the FDA to create some type of inference into society that somehow it's okay.

President Obama stated on March 14 of this year that 95 percent of America's 150,000 food processing plants and warehouses go uninspected each year. Wow. Each year, 74 million people in the United States are sickened by tainted food, and about 5,000 die, according to the CDC. That's on food alone.

Then, with regard to drugs, I look forward to working with Chairman WAXMAN, Madam Speaker, and with Mr. DINGELL, with regard to drug safety because right now we have 11 international mail facilities by the United States Government. You count the three private carriers that also have international mail facilities, and they are taking up to around 30,000 drug packages that are coming into our country by people who are going on to the Internet. Every time we do an inspection of those mail packages, we find that 80 percent of them are either counterfeit knockoffs or adulterated drugs. When, in fact, you do the math and you say, okay, wow, take that 14 times 30,000 times 365, then times 80 percent, we are looking at 96 million. Think about that. 96 million drug packages coming in. So what we're doing now is we're lumping this onto FDA, and FDA is a challenged, a very challenged agency.

I urge individuals to vote ''no'' on this legislation. There is a better way to regulate tobacco.

Mr. WAXMAN. So, Madam Speaker, it's come down to this, a musing that perhaps FDA is not the right agency; we ought to create a brand new one, but don't give them any power to do anything.

Or what we need is harm reduction, even though this legislation gives the FDA the ability to look for ways to reduce the harm from cigarette smoking.

But the best way, the best way is not to smoke. And the best way is to make sure that people don't start smoking. And if they do smoke, to give it up.

And then the next argument, it's not constitutional. And my colleague has cited the fact that he believes the Supreme Court, when they ruled on the issue of the regulations being proposed by the FDA, that they said that those were unconstitutional.

Well, the truth of the matter is the Supreme Court said FDA did not have the legal authority and that Congress had to vote to give them the legal authority to adopt those regulations. That is what we are about to do today.

I've been working on the issue of tobacco for over three decades, and in fact, I thought about this issue as I prepared a book that's going to be coming out on a lot of different issues in the next couple of weeks.

And I remember the hearings we had where the tobacco industry had so-called scientists argue there really wasn't any harm from cigarette smoking. It was just coincidental.

I remember well when the CEOs came before our committee, and that was a real turning point. And they took an oath to tell the truth, and they said, no harm from cigarette smoking; it's not connected to cancer; it's not connected to heart disease; it's not connected to all these other problems; it's only a coincidence. They said cigarette smoking was not addictive because nicotine is not addictive. They swore that under oath. They said they didn't manipulate the nicotine to make it even stronger and more addictive a product. And they said, with righteous indignation, they certainly wouldn't target kids to smoke.

Well, after that appearance in 1994, we pierced the veil that hung over the industry and started to find out what they were saying in their own corporate boardrooms and what their own scientists understood the case to be.

We later had a hearing where a scientist that worked for the tobacco industry told us he understood the harm. The industry wanted to know what harm it did, and they knew that, in fact, it caused a tremendous amount of death and disease in this country. They were looking at ways to patent new ways to raise the nicotine levels so they can keep people smoking, because they were very well aware of the fact that nicotine was addictive and they could, in fact, make sure that nicotine grabbed on to those smokers and kept them captive to that habit.

And the Joe Camel advertising campaign was marketed in France to see if it really got kids to be loyal to that brand. And in their boardroom they discussed how important it was to get kids to start smoking at 14 or 15 years of age because then they would be loyal to that brand, let alone addicted to the product.

We later found out how the tobacco industry spent millions and millions of dollars on a phony operation to say that they were studying whether the harm was there from cigarette smoking, and what they did was manipulated the media, deceived the American people, to argue the science wasn't really there to claim cigarettes was a problem. The science is still out.

By the way, we hear this about global warming today. Even though the overwhelming consensus was there from reputable scientists, they tried to make people believe, don't worry about it, you can continue to smoke; it's not going to do you harm.

And they tried so hard and successfully, for decades, to keep secret the fact that nonsmokers were harmed by simply being in the presence of smokers.

I remember the power of the tobacco industry that kept the Congress from acting, and it was by one vote that the House of Representatives decided to try and experiment to see if we could have airplane flights, commercial airplane flights of an hour or less, without any smoking permitted. And Members stood up on the floor of the House and said smokers would never tolerate such a thing.

Well, it was so widely popular that it's hard to find any airline in the world that allows smoking on airplane flights of whatever length it may be.

The public has come to understand this industry, and they know the dishonesty of this industry, and they know that the clout of this industry kept the government from acting for decades.

But people now don't realize how it was 30 years ago. Thirty years ago people who smoked felt they had the right to light up a cigarette, no matter where they were.

We've heard the argument that the Court may look at the constitutionality of any free speech matter that might relate to advisories about cigarette smoking.

Well, it's hard for me to believe that a Supreme Court that once said the Constitution does not mean that the freedom of speech allows people to yell ''fire'' in a crowded room would now come to the point where they'd say it would be unconstitutional to prohibit an industry from trying to get children to smoke a product that's illegal for them to buy in any State of the Union.

I think we are, today, at the last gasp of the tobacco industry's efforts to protect their profits at the expense of the health and lives of the American people and to get children to take up this habit. We're moving away from it fast in this country. The FDA will help us succeed in ending this tobacco epidemic.

My heart goes out to people around the world as American tobacco companies are telling people in other countries, be like Americans. If you're a woman, you can smoke—don't let your culture keep you from taking up this habit. As they tell children around the world, start smoking. You can be more like Americans who you so admire. You can be cool, and all the stuff that was blabbered out in the decades in the United States to get so many millions of people to smoke.

Madam Speaker, this bill, authored by Senator KENNEDY in the Senate and by myself in the House, has come a long way. It took us a long time to get here. But we're here now, and I urge my colleagues to vote for passage of this legislation.

Mr. VAN HOLLEN. Madam Speaker, this is a very important and historic day for the American people. I rise in strong support of the bipartisan Family Smoking Prevention and Tobacco Control Act, of which I am a proud original cosponsor. I want to thank and acknowledge the leadership of Chairman WAXMAN, Senator KENNEDY, and so many others who have fought the battles for so many years to see this day happen.

Granting the Food and Drug Administration the authority to regulate tobacco products is long overdue. The legislation is a critical step in protecting the health and well being of millions of Americans from the deadly effects of

tobacco use. It is a shame that tobacco products were not regulated in this country. Though the FDA has the authority to regulate products that are not addictive, we always had this gap in their regulatory authority when it came to the very addictive products of nicotine and tobacco products.

For far too long, the tobacco companies have taken advantage of this loophole and have exploited it by marketing their deadly products to young people. Generation after generation, the tobacco companies knowingly targeted our kids through flavored cigarettes, manipulating the ingredients in their products, false advertising and other deceiving methods—all to ensure that their profit margins remained high. In fact, they had to do that. In order for these companies to continue to make their profits, they had to find ways to hook people on tobacco products.

I am very proud of the efforts Maryland has taken to curb the effects of tobacco use. It has increased the tobacco tax and youth smoking has declined. Maryland also passed a comprehensive smokefree indoor air law in 2007. I am also proud that the Congress took steps earlier this year to decrease tobacco use by increasing federal excise taxes on cigarettes as part of the reauthorization of the State Children's Health Insurance Program.

Let's make sure that future generations of young people do not get addicted to tobacco products. Addiction to tobacco products has had a huge cost to our society in terms of lives and money by killing over 400,000 Americans each year. This legislation will save lives and money. I strongly urge my colleagues to join me in putting an end to this deadly cycle and vote yes on this very important bill.

Ms. FOXX. Madam Speaker, this bill includes more than $5 billion in new tax increases on tobacco companies and gives sweeping control of the tobacco market to the FDA. Chairman DINGELL, discussing the salmonella outbreak last summer, was quoted in The Wall Street Journal as saying that ''there's a total inability of the FDA to carry out its mission.'' This isn't the first Democrat to raise questions about the effectiveness of the FDA. It is therefore highly hypocritical of them to extend the agency's regulatory authority to a multi-billion dollar industry of which the FDA has no expertise.

This bill undermines the established purpose of the FDA. As FDA Commissioner Andrew von Eschenbach testified before the House Energy and Commerce Committee in October 2007, the FDA is an agency intended to promote and protect the public health. In the Commissioner's opinion, requiring the FDA to ''approve'' tobacco products as a result of this bill would dramatically change the agency's focus. Mr. von Eschenbach stated that ''Associating any agency whose mission is to promote public health with the approval of inherently dangerous products would undermine its mission and likely have perverse incentive effects.''

While establishing FDA authority to regulate tobacco products, this bill would also retain the FTC's federal authority to regulate tobacco advertising and circulation. It would provide only limited pre-emption of state laws, allowing more rigid state restrictions on tobacco advertising.

This bill imposes undue bureaucratic and logistical hardships on tobacco manufacturers by burying them under multiple layers of regulation. It is important to remember that the sale of tobacco is legal in the United States and is credited with hundreds of thousands of jobs across the country. We cannot afford to lose more American jobs especially when we are facing such economic challenges.

FDA regulation will have a devastating economic impact on small tobacco companies, their employees, associated businesses, and the largely rural communities which they support. Under this legislation they will not be able to comply with and afford what is sure to be a costly and complex regulatory regime.

There are some 350 small tobacco manufacturing companies throughout the United States. Together with their suppliers, vendors, distributors and tobacco growers, these companies employ thousands of people. Tobacco growing in particular has long been an important part of rural communities. As most of these companies are located in rural, economically depressed areas, the jobs, employee health and pension benefits and revenue they provide is critical to our local economies. While large tobacco companies can absorb the cost of FDA regulation, many of these smaller companies cannot. This legislation will force them to close their doors, leaving their employees jobless.

Ms. LEE of California. Madam Speaker; I rise in strong support of the Senate Amendments to H.R. 1256, the Family Smoking Prevention and Tobacco Control Act.

I want to thank Chairman WAXMAN and his staff, and Senator KENNEDY for their tireless work over the years to ensure that we could get to this moment.

The federal regulation of tobacco has been a long time coming. I'm pleased that today's action will complete consideration of this bill and send it on to the President to finally get it enacted into law.

According to the Centers for Disease Control and Prevention, smoking is the leading cause of premature death in the United States. More than one in five Americans smoke, and according to the CDC's most recent report, in 2004 this included about 21 percent of adults and more than 22 percent of high school students.

Each year about 1 in 5 deaths, about 443,000 people, are a result of smoking or exposure to secondhand smoke. And for each person who dies from a smoking related disease about 20 more are living with a smoking attributable chronic illness—or about 8.6 million people.

In addition to the significant effects of smoking on the health of our constituents, the estimated costs of smoking-related medical expenses and loss of productivity exceed $167 billion annually.

Thankfully, in my state of California we have known the dangers of smoking for a long time, and we were one of the first states to move forward in banning indoor smoking in public places, including bars and restaurants. As a result our State has the second lowest prevalence level of smoking among both adults and youth, at 14.8 percent and 13.2 percent respectively.

It is long past time that we try to take a national approach to address the dangers of smoking.

I'm pleased that this bipartisan legislation will grant the Food and Drug Administration authority to regulate the advertising, marketing, and manufacturing of tobacco products. And I'm also pleased that it takes steps to ban flavor additives, including menthol, as well as further restricting marketing directed to our children.

But passage of this bill really is just the first step. We've also got to make sure that we follow through on the regulatory authority provided in this bill to help encourage smokers to quit, and to provide help to those who choose to do so.

However I'm pleased that we are finally taking this action today, and I'm convinced that it will help to improve public health and reduce costs to our health care system in the long run.

I urge my colleagues to support this bill.

Mr. MCINTYRE. Madam Speaker, I rise today to express grave concerns about H.R. 1256, the Family Smoking Prevention and Tobacco Control Act.

This bill will grant the Food and Drug Administration (FDA) wide authority to dictate to manufacturers and growers dramatic changes in product design and leaf cultivation, a concern that has been raised repeatedly by the tobacco growers in my district. The last thing we want is government bureaucrats coming on the farm!

The tobacco industry contributes over $36 billion to the U.S. economy each year, employing over 19,000 individuals nationwide. In my home state of North Carolina, over 8,600 people are employed by the industry with a statewide economic impact of over $23.9 billion.

The manufacturing provisions and ''FDA on the farm'' provisions of this bill will put many companies and growers out of business. In this time of economic uncertainty, we can't afford to lose more jobs!

In addition, the FDA is already overburdened with its food safety and drug approval mission. Placing another large regulatory burden on an already overwhelmed agency will further divert attention away from the FDA's primary role of protecting our food supply and regulating prescription drugs.

Mr. TOWNS. Madam Speaker, today, I rise in support of H.R. 1256 because of the public health benefits this legislation will provide to the country.

I am deeply troubled, however, that the legislation we are voting on today does not include many provisions of great importance to Federal employees. These provisions were adopted unanimously by this chamber and were included in the tobacco legislation that was sent to the Senate.

The Oversight and Government Reform Committee worked closely with the sponsors of H.R. 1256 in crafting this legislation. The bill modernizes the Federal Employee Thrift Savings Plan, and these changes to the TSP provide the revenue that covers the cost of new tobacco prevention programs. As a matter of simple fairness, a portion of this revenue generated by Federal employees was devoted to simple fixes to the Federal retirement system that will make it more fair and efficient for Federal employees and management.

The House-passed legislation included provisions to eliminate inconsistency in how part-time service, breaks in service, and unused sick leave are considered in calculating retirement benefits. These provisions would help encourage highly-talented individuals to return to government service at a time when we need to be attracting such individuals to prepare for a wave of upcoming retirements, and

would help that wave of retirements be more predictable and orderly.

Unfortunately, the Senate amendments to this bill left out these critical provisions. It is very disappointing, and unfair to Federal employees, that they are used to generate the revenue for these important changes, but that a portion of that revenue will not fund important reforms that will make the Federal personnel system more efficient. I will continue to work with my colleagues to ensure that these inequities and inefficiencies in the Federal retirement system are addressed.

Mr. WU. Madam Speaker, I rise today in support of H.R. 1256, the Family Smoking Prevention and Tobacco Control Act, and ask my colleagues to agree to the Senate amendments.

The statistics being heard on this floor are handed out on this floor like candy. Because numbers are often passed off as nothing more than empty words, we fail to recognize what they mean—in this Speaker, I rise today in support case we are talking about people's lives. It was Irving Selikoff, a medical researcher who co-discovered a cure for tuberculosis who said, "Statistics are real people with the tears wiped away."

For instance, smoking-related diseases cause an estimated 440,000 American deaths each year. And a 2004 study by the CDC's National Center for Chronic Disease Prevention and Health Promotion found that cigarette smoke contains over 4,800 chemicals, 69 of which are known to cause cancer.

Ninety percent of adult smokers are addicted to tobacco before they reach the age of 18; 50 percent before the age of 14. Currently the average age of initiation to tobacco is 11.

Forty-eight million adults smoke in the U.S., which is 22.9 percent of the population overall, and 33 percent of youth currently smoke.

Those real people are our parents and children, our family and friends, who suffer the consequences of addiction to tobacco. I want my children to grow up healthy and to make healthy decisions. To help that happen, H.R. 1256 will put in place the proper authority for the Food and Drug Administration to establish regulations over tobacco products. We need the FDA to protect our population from the harmful effects of cigarettes and tobacco products by being able to provide sound, scientific regulations governing these products.

Even with all the warnings, and the money spent on education campaigns, kids are still picking up smoking at the alarming rate of 3,000 a day in the United States.

The health concerns that will face these children are costly, painful, and deadly.

But they are also ultimately preventable.

I am acutely concerned that tobacco companies have used Portland, Oregon, as a test market for new smokeless tobacco products. Products like snus, or other tobacco-based nicotine delivery products have been repeatedly tested in markets like Portland.

Many of these products look like candy and taste sweet. They are an addictive tobacco trap for children and should be either banned or heavily regulated away from kids.

I ask my colleagues to agree to the Senate amendments to H.R. 1256, the Family Smoking Prevention and Tobacco Control Act, and send this bill to the President's desk for him to sign.

Mr. WAXMAN. I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to House Resolution 532, the previous question is ordered.

The question is on the motion offered by the gentleman from California (Mr. WAXMAN).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BUYER. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 307, nays 97, not voting 30, as follows:

[Roll No. 335]

YEAS—307

Abercrombie
Altmire
Andrews
Arcuri
Austria
Bachus
Baird
Baldwin
Barrow
Bartlett
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Bono Mack
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Braley (IA)
Brown (SC)
Brown-Waite, Ginny
Burton (IN)
Butterfield
Camp
Cantor
Cao
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Cassidy
Castle
Castor (FL)
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Emerson
Engel
Etheridge
Fallin
Farr
Fattah
Filner
Fleming
Fortenberry
Foster
Frank (MA)
Frelinghuysen
Fudge
Gerlach
Giffords
Gonzalez
Gordon (TN)
Granger
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (NY)
Kirk
Klein (FL)
Kosmas
Kratovil
Kucinich
Lance
Langevin
Larsen (WA)
Larson (CT)
LaTourette
Lee (CA)
Lee (NY)
Levin
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Luján
Lungren, Daniel E.
Lynch
Maffei
Maloney
Manzullo
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McCollum
McDermott
McGovern
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (MI)
Miller (NC)
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Pelosi
Perlmutter
Peters
Peterson
Pingree (ME)
Platts
Poe (TX)
Polis (CO)
Pomeroy
Price (NC)
Putnam
Quigley
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Rogers (AL)
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sarbanes
Schakowsky
Schauer
Schiff
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shimkus
Simpson
Sires
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stearns
Stupak
Sutton
Tanner
Tauscher
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NAYS—97

Aderholt
Akin
Alexander
Bachmann
Barton (TX)
Bishop (UT)
Boehner
Bonner
Boozman
Boustany
Bright
Broun (GA)
Burgess
Buyer
Calvert
Campbell
Carter
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Culberson
Davis (KY)
Davis (TN)
Diaz-Balart, L.
Diaz-Balart, M.
Flake
Forbes
Foxx
Franks (AZ)
Garrett (NJ)
Goodlatte
Graves
Guthrie
Heller
Hensarling
Herger
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson, Sam
Jordan (OH)
King (IA)
Kingston
Kirkpatrick (AZ)
Kissell
Lamborn
Latham
Latta
Lewis (CA)
Linder
Lucas
Lummis
Mack
McClintock
McCotter
McHenry
McHugh
McIntyre
Mica
Miller (FL)
Moran (KS)
Myrick
Neugebauer
Olson
Paul
Pence
Perriello
Petri
Pitts
Posey
Price (GA)
Radanovich
Roe (TN)
Rogers (KY)
Rohrabacher
Rooney
Royce
Ryan (WI)
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Shuler
Shuster
Smith (NE)
Souder
Thompson (PA)
Thornberry
Tiahrt
Westmoreland
Whitfield
Wilson (SC)

NOT VOTING—30

Ackerman
Adler (NJ)
Baca
Barrett (SC)
Blackburn
Blunt
Brown, Corrine
Buchanan
Childers
Deal (GA)
Ehlers
Eshoo
Gallegly
Gingrey (GA)
Gohmert
Hastings (WA)
Holt
Jones
Kennedy
Kline (MN)
Lewis (GA)
Luetkemeyer
Marchant
Miller, Gary
Nunes
Rogers (MI)
Ruppersberger
Sanchez, Loretta
Sullivan
Wilson (OH)

□ 1154

So the motion to concur was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. ESHOO. Madam Speaker, I was not present during Senate Amendment to H.R. 1256, the Family Smoking Prevention and Tobacco Control Act, on June 12, 2009. Had I been present I would have voted "yea."

GENERAL LEAVE

Mr. WAXMAN. I ask unanimous consent that Members have 5 legislative

days to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PRIVILEGED REPORT ON RESOLUTION OF INQUIRY TO THE PRESIDENT

Mr. WAXMAN, from the Committee on Energy and Commerce, submitted a privileged report (Rept. No. 111–146) on the resolution (H. Res. 449) of inquiry requesting the President to provide certain documents in his possession to the House of Representatives relating to the Environmental Protection Agency's April proposed finding that greenhouse gas emissions are a danger to public health and welfare, which was referred to the House Calendar and ordered to be printed.

PRIVILEGED REPORT ON RESOLUTION OF INQUIRY TO THE PRESIDENT

Mr. WAXMAN, from the Committee on Energy and Commerce, submitted a privileged report (Rept. No. 111–147) on the resolution (H. Res. 462) requesting that the President transmit to the House of Representatives all information in his possession relating to specific communications with Chrysler LLC (''Chrysler''), which was referred to the House Calendar and ordered to be printed.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 2346, SUPPLEMENTAL APPROPRIATIONS ACT, 2009

Mr. OBEY. Madam Speaker, I ask unanimous consent that the managers on the part of the House may have until 11:59 p.m. on June 12, 2009, to file a conference report on H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PERMISSION TO FILE PRIVILEGED REPORT ON COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS BILL, 2010

Mr. OBEY. Madam Speaker, I ask unanimous consent that the Committee on Appropriations may have until 11:59 p.m. on June 12, 2009, to file a privileged report on a bill making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 1 of rule XXI, all points of order are reserved.

□ 1200

LEGISLATIVE PROGRAM

(Mr. CANTOR asked and was given permission to address the House for 1 minute.)

Mr. CANTOR. Madam Speaker, I yield to the gentleman from Maryland, the majority leader, for the purpose of announcing next week's schedule.

Mr. HOYER. I thank my friend for yielding.

On Monday, Madam Speaker, the House will meet at 12:30 p.m. for morning-hour debate and 2 p.m. for legislative business, with votes postponed until 6:30 p.m.

On Tuesday, the Former Members Association will have their annual meeting on the floor at 8:30 a.m. The House will then meet at 10:30 a.m. for morning-hour debate and 12 p.m. for legislative business. On Wednesday and Thursday, the House will meet at 10 a.m. for legislative business. And on Friday, as is unusual, the House will meet at 9 a.m. for legislative business.

Madam Speaker, we will consider several bills under suspension of the rules. A complete list of suspension bills will be noted by the end of the day.

In addition, we will consider a conference report on H.R. 2346, the Supplemental Appropriations Act on the 2010 Commerce, Justice, Science, and Related Agencies Appropriation Act and the 2010 Homeland Security Appropriations Act. And I yield back.

Mr. CANTOR. Madam Speaker, I thank the gentleman.

I would say to the gentleman that he has noticed two appropriations bills for next week: Commerce, Justice and Science; and the Homeland Security appropriations bills. Madam Speaker, I would ask the gentleman, does he expect the House, as is its custom, to consider these bills under an open rule? And I yield.

Mr. HOYER. I thank the gentleman for yielding.

It certainly would be our intent to proceed with an open rule on the consideration of the Commerce, Justice and State bill—I guess it's Science now. The intent, of course, as the gentleman knows based upon our discussions, is that we will finish all 12 appropriation bills individually between now and the 30th of July. This will give the Senate and the House the opportunity to agree on a conference report on the 12 appropriation bills and hopefully enact those bills and send them to the President prior to the onset of the fiscal year October 1. If we do that, of course, it will be unusual, and it is an ambitious schedule. But because of that, it will be necessary for us to consider these bills in an effective, but also efficient, fashion and stay within time constraints that will allow us to accomplish those 12 bills within that time frame. I am hopeful that as Mr. OBEY and Mr. LEWIS proceed and the subcommittee Chairs proceed, that we can agree on that occurring.

As the gentleman and I have discussed, we will see how the first bill goes, or the second or third, and hopefully they will go in that fashion. The only constraint that we want is to utilize the time so we can effect the objective of passing these bills by the August break so we will have time to finish them before the beginning of the fiscal year.

I would tell my friend that, in addition to that, there would be one, however, additional request that the chairman of the Appropriations Committee has made—with which I strongly agree and that I think is fair to all the Members and to the committee Chairs and subcommittee Chairs—and that is that there will be a requirement for preprinting an amendment. There will be no selection in the CJS bill of amendments, but there will be a requirement that they be preprinted and included in the RECORD.

If, however, I want to assure the gentleman, there is some problem with the RECORD reflecting an amendment that has been prefiled but doesn't make it in the RECORD, we would proceed as if that had been included in the printed RECORD.

Mr. CANTOR. Madam Speaker, I thank the gentleman.

As the gentleman knows, in 2005 this House did abide by a schedule such as the one that he proposes, and did so under an open rule on each bill.

I ask the gentleman if, given this preprinting requirement that we are proceeding under, if there is a need for a perfecting amendment that comes upon the adoption of an amendment, how is it that we will be necessarily guaranteeing Members' perfecting amendments the right to be heard? Will there be a UC granted for such a perfecting amendment? I yield.

Mr. HOYER. I thank my friend for yielding.

I have discussed this matter with the chairman of the Appropriations Committee, and it is his view—and I share that view, certainly—that in that instance granting a unanimous consent would be appropriate. Obviously, if the circumstances change and such an amendment were necessary, I think the gentleman will find that the chairman is inclined—and I believe the subcommittee chairman will be inclined—to give unanimous consent to achieve that objective.

Mr. CANTOR. I thank the gentleman.

Madam Speaker, I would say to the gentleman that the Speaker of the House has announced a goal of considering the cap-and-trade bill on the floor prior to the July 4 recess. I would ask the majority leader, does he expect the Speaker's goal to be met? And I yield.

Mr. HOYER. I thank the gentleman for yielding.

We certainly hope so. The Speaker and I have both indicated, with respect to the energy bill, which seeks to not only address the conservation of our energy and making us energy independent, but also seeks to address the global warming challenge that confronts our globe, to pass that legislation in a timely fashion. It passed out of committee, as the gentleman knows, the week when we left for the Memorial Day break, so it has been pending now for at least 3 weeks.

It is our hope that we can move forward on this as early, perhaps, as the last week in June, which would be immediately before the July 4 break. Time and circumstances will dictate whether or not that is possible, but we certainly do hope to consider that in the near term.

In addition, as the gentleman undoubtedly knows, we also have under consideration the health care bill, which the President has made a very high priority and which we have made a very high priority. So that bill will also, we hope, be considered prior to the August break.

So those two bills are major pieces of legislation that we hope to consider, but I don't want to give an exact date on those because they are complicated pieces of legislation. We hope that we can reach agreement on—and we would like to reach agreement across the aisle as well—if not all facets, at least some facets of that bill. I'm sure your side has considerations that will help us perfect a bill. I think we will probably have some agreements, but, nevertheless, we hope to move forward together on both bills.

Mr. CANTOR. Madam Speaker, I thank the gentleman.

I would like to ask a followup of the majority leader, specifically for the benefit of the Members who serve on the Ways and Means and the Agriculture Committees. Will we anticipate that those two committees will have an opportunity to hear and mark up the cap-and-trade bill? And I yield.

Mr. HOYER. I thank the gentleman for yielding.

I have discussed this matter with the chairmen of both committees. Certainly they will have the opportunity. Whether they will avail themselves of that opportunity I can't say at this point in time. What I mean by that is that there are clearly concerns that both committees have and have been expressed. But whether or not they're going to actually go to a markup of the bill or try to perfect it in other ways on the floor or in working with the Energy and Commerce Committee I don't think has been decided by either committee at this point in time.

Mr. CANTOR. I thank the gentleman.

Madam Speaker, I now would like to point out to the gentleman, as all of us know, that our troops in Iraq and Afghanistan have spent the last 29 days waiting for this Congress to authorize the funding that they need to execute their mission to maintain not only their own safety, but the safety of us here at home. We have heard reports since last night that the war funding bill and its provision and primary mission of funding the troops has now been somewhat eclipsed by provisions which have no relation to protecting and supporting our troops in the field. So I would ask the gentleman, could he confirm, number one, that $108 billion—scored at $5 billion by the Congressional Budget Office—whether that money for the IMF will be included in the troop funding bill? Number two, are the reports correct which have indicated that the provisions prohibiting the release of detainee photos has now been stripped from the measure that we will consider? And thirdly, could the gentleman confirm that the conference report coming to the House will now allow for the transfer of the Guantanamo detainees into the United States?

And I yield.

Mr. HOYER. I thank the gentleman for yielding.

As the gentleman recalls, we had a relatively robust discussion about this last week.

Let me, first of all, say that the principle purpose of this bill was, is, and will be on Tuesday the funding of our troops in the field, providing them with the resources necessary to complete successfully or pursue successfully the task that we've given them and to provide for their safety and well-being to the possible extent we can. So that was the intent, it is the intent, and will remain the intent.

Now, let me make a suggestion that providing for some of the poorest nations in the world to be more successful economically will not only be beneficial to our country and to the international economy generally, but also to the safety of our troops, very frankly. It is, obviously, in deep poverty and frustration from which many of the terrorists that we have seen have been recruited. To the extent we provide for the economies of these small, troubled countries, we may well be a safer world, not only economically better off, but from a security standpoint better off. So we perceive the IMF as an integral part of a process of seeking security.

I might say that the IMF, as I quoted last week, very strongly supported by Ronald Reagan, very strongly supported by both President Bushes, but particularly President Bush the First, where they said investing in the IMF was an investment in the well-being of the international community and our own country.

As you indicate, the $108 billion scores at $5 billion because it's a loan guarantee; it's not a giveaway. We believe that the IMF is a very important part of it, and in answer to your question, the IMF will, in fact, be a part—as I think the gentleman probably knows—of the conference report that will be filed perhaps later tonight.

With respect to your second question regarding—well, I guess your third question because your first was about the security of the troops—the third question of Guantanamo, let me, first of all, read a letter, a paragraph of a letter dated June 11 to Mr. OBEY and Mr. INOUYE, the Senate chairman of the Appropriations Committee, from President Obama.

□ 1215

He says, On May 13 I announced I would resist the release of additional detainee photos because I did not believe it would add any additional benefit to our understanding of what happened in the past and that the most direct consequences of releasing them would be to further inflame anti-American opinion and put our troops in greater danger. Earlier today the Second Circuit granted the government's motion that will stay the earlier court order to release the detainees' photos, and we will now move forward with a petition to the Supreme Court to appeal the case.

He goes on to say, I deeply appreciate all you have done to help with the effort to secure funding for the troops, and I assure you that I will continue to take every legal and administrative remedy available to me to ensure that the DOD detainee photographs are not released. Should a legislative solution prove necessary, I am committed to working with the Congress to enact legislation that achieves the objectives we share.

With respect, lastly, Mr. Whip, to the detainees, as you know, one detainee was, in fact, transferred to the United States, to New York, for the purposes of trial. That is not unusual. As the gentleman knows, many terrorists have been tried in the New York District Court in which this trial will occur. In addition to that, four Uyghurs have been ordered released by the court because the court concluded there was no proof of terrorist activity by the Uyghurs. They've been released to Bermuda.

One Iraqi detainee, Mr. Sadkhan, was returned to Iraq. One Chadian detainee was returned to Chad. And Mr. Ghailani, to whom I have referred to earlier, has been transferred to New York City, where there is a standing indictment against him. He'll be tried for his role in the 1998 attacks in Tanzania and Kenya in which the father and brother of one of my constituents, Edith Bartley, were killed, Julian and Jay Bartley. So I, for one, am pleased that this gentleman, and I use that term loosely, unfortunately, but this individual will be tried and brought to justice.

All four Biscoe conspirators have been found guilty and are serving out sentence in the U.S. supermax prison. It has been agreed under the language, as I understand it, that has been adopted that detainees would be brought to the United States for no other purpose than prosecution.

Mr. CANTOR. I thank the gentleman.

And, Madam Speaker, I would respond by going back to the gentleman's

original statement concerning the principal purpose of the war funding bill, and that he said, if I could paraphrase, the intent of the bill is to fund our troops. So I am at somewhat of a loss to understand why we have taken 29 days. We've already had one strong bipartisan vote in this House with nearly unanimity on our side of the aisle to provide the necessary funding for our troops, so I'm at somewhat of a loss to understand why the delay.

The gentleman speaks of the urgent need for us, as U.S. taxpayers, to fund a global bailout, and the gentleman said that there is indication that somehow if we address the issue of poverty that we will then be lessening the number of terrorists. I don't know, Madam Speaker, if all of us would agree with that or not. No question, reducing poverty is a laudable goal, but we are also in the business here in Washington of setting priorities. Priority one should be the funding of our troops and to secure this country and its citizens. And thank God we have our men and women in uniform there. They should be our priority in executing in terms of advocating for the safety and fighting for the security of this country.

So I am still, to use the gentleman's word from last week, confounded as to why it is we cannot have the IMF funding go through regular order in this House. As you know, reports have indicated that actions have been taken by this administration, especially Secretary Geithner, to cast a vote in favor of increasing access to money and credit for the member nations of the IMF. That is done without congressional approval. And we're talking here specifically about the special drawing rights of nations at the IMF. We have also found out that the nation of Iran will have the ability to access funding of over a billion dollars through this process. To me, that calls for congressional oversight and action. It doesn't warrant delaying this bill. It doesn't warrant putting on the backs of our troops the funding of nations, frankly, that are providing support for the destruction of our efforts and endangering our troops on the ground in Iraq and in the region.

So I have a question to the gentleman of why it is so important that we go ahead and fund a global bailout when the primary mission is to fund our troops.

And I yield to the gentleman.

Mr. HOYER. I thank the gentleman for yielding to me.

The gentleman articulates a number of premises that I reject, I don't agree with. Nobody is putting anything on the back of the troops. The gentleman has been in this body for some period of time, and he knows that from time to time the other body adds amendments to bills and it is incumbent upon us to consider those amendments. As the gentleman knows, when we passed the bill through the House, it did not have the IMF funding in the bill. The Senate added it to the bill. It was a subject of the conference report. The President of the United States has asked for the IMF funding. We happen to agree with the President of the United States that the IMF funding is appropriate funding and does, in fact, as I will restate for the gentleman, we believe, add a security component to the troop funding that is the primary purpose of this bill.

Secondly, I reject your premise that somehow this money is going to go to people who are going to harm us. In fact, of course, as I told you last week, the last time Iran, which you mentioned, received money was when Ronald Reagan was President of the United States in 1984. There is no expectation, in my opinion, that Iran, while it may be eligible technically, is going to get any money, as it has not for the last quarter of a century.

I would reiterate what I said last week in quoting Ronald Reagan, no individual who wanted to give aid and comfort to the enemy. Very forthright in his confrontation of communism and despotism. He said, ''I have an unbreakable commitment to increase funding for the IMF.'' As I cited to you, he said that on September 7, 1983. He went on to say, ''The IMF is the linchpin of the international financial system.''

The gentleman and his side of the aisle continue, in my opinion, to misrepresent what is intended by that funding. The President of the United States, whether it was Ronald Reagan, George Bush the First, George Bush the Second, or any other President, that goes to an international meeting with 19 of the other large industrial nations in the world and they sit down together and attempt to try to bring the global economy back to vibrancy and agree that, in part, what is needed is some assistance to the poorest nations in this world who are themselves being dragged down and, in the process, adversely affecting the global markets generally agree to make a substantial commitment of loan guarantees available. As the gentleman knows, the United States has about a 20 percent vote on this, and this is about a 20 percent contribution that the President has agreed to. The other 19 nations agreed to come up with 80 percent of these dollars. All of them agreed that this is in the best interest of restoring our global economy and, I suggest to you as well, stabilizing the security situation that confronts the international community.

President Bush said—and this is the last quote I'll give. You may be tired of hearing these quotes, but your side of the aisle has been making a great hue and cry as if IMF is some specious, dangerous pursuit. This is not a bailout. This is an assistance to people to try to grow back and be positive, contributing members of the international global marketplace.

George Bush said this: ''The IMF and World Bank, given their central role in the world economy, are key to helping all of us through this situation by providing a combination of policy advice and financial assistance.'' George Bush said that on September 25, 1990, a time of economic stress internationally for the same reason that President Obama and the 19 other industrialized nations of the world agreed that this was an appropriate step to take.

I would hope the gentleman would urge his party to support this, consistent with the principles of Ronald Reagan and George Bush.

Mr. CANTOR. I thank the gentleman.

Madam Speaker, I think, as the gentleman knows, we are probably going to have to leave this topic and agree to disagree. It is very concerning, given the new times we are in, and, frankly, the facts and information have come forward about the special drawing rights about the fact and knowledge that we have at this point knowing U.S. taxpayer dollars will help facilitate countries like Iran, Venezuela, Burma, and others to access more money to do what it is that they think is in their interest and certainly not in the interest of the U.S.

But I would like to turn the gentleman's attention back to his statement about the intention of this bill and the primary purpose of the war funding bill, which, again, to loosely paraphrase, was to provide for troop safety and security, and that's the underlying purpose. The gentleman indicated that the President has already taken the same position that most of us, I believe, in this House have taken so far as these photos are concerned and the release of the photos of the detainees. So I am again at somewhat of a loss to understand why it is that even if the White House and the President himself have sided with what I think the majority of the American people feel as well as the Members of this House, why it is that we are doing the opposite in the text of the report that we will be voting on.

And I would say to the gentleman, Commander Ray Odierno, General Odierno, Commander of the Multinational Forces in Iraq, someone that I'm sure the gentleman has had occasion to meet and I as well, who we know is a very respected and serious leader of our troops, he said just a few weeks ago, I strongly believe the release of these photos will endanger the lives of U.S. soldiers, airmen, marines, sailors, and civilians, as well as the lives of our Iraqi partners. Certain operating units are at particular risk of harm from release of the photos. And he went on to describe those particular risks that are specific.

The gentleman, I think, can agree with me it is not in the interest of securing the safety of our troops for us to remain silent or for us not to take congressional action ensuring that nothing occurs for us to possibly harm our troops in this bill. That is why I ask the gentleman again, how have we sat here and delayed consideration of the bill because now we had to ensure inclusion in the bill the stripping of the

provision which provides the safety of our troops?

And I yield to the gentleman.

Mr. HOYER. I thank the gentleman for yielding.

Maybe one of the answers is we have less enthusiasm on this side of the aisle for interposing in cases that the court is considering. I was called back on a Sunday by your side of the aisle many years ago to do exactly that. It ended up having no effect.

There are a lot of people on my side of the aisle who believe that the objective that is being sought, which the President of the United States and, to this extent, General Odierno agrees with the Commander in Chief that these photos ought not to be released, as I pointed out to you in the paragraph that I read from the President's letter. In fact, the court has stayed the release of those pending a review by the Supreme Court of the United States. This matter is under consideration. There was general concern about obviating FOIA, the Freedom of Information Act, generally as opposed to specifically. But the President has made it very clear, the Commander in Chief, and obviously General Odierno agrees with the Commander in Chief on this issue, that he is going to take such steps as are necessary to ensure that these photos are not released, to the extent that he and General Odierno both agree that the release of those pictures may, in fact, have an adverse effect on the safety of our troops. So what I simply respond to the gentleman is that the President of the United States and General Odierno are both in a agreement and the President of the United States is taking action to effect that agreement.

□ 1230

Mr. CANTOR. I thank the gentleman, Madam Speaker.

I would simply point to the vote taken yesterday in the House on the motion to instruct conferees, 267 Members of this House support the inclusion of the language barring release of the photos. So I am at a loss to understand the thinking behind this action when we bring this report to the floor that strips that language.

Not only the majority, by far the Members of this House on both sides of the aisle said that they think that language is important. The American people do. It is counterintuitive to think at all that Congress should not take action to secure the safety of our troops and stop the release of those photos.

Lastly, Madam Speaker, I would just say to the gentleman, we have been somewhat dismayed again about the clouding of the issues and the underlying principle of this bill, which is to fund our troops and provide for their safety, and we've seen this process delayed over unrelated items. It is unfortunate. And I'm hopeful that our troops are not getting the wrong message, that somehow their safety, security and the funding of their efforts doesn't come first.

I would just lastly like to ask the gentleman: How is it that when we left the House and we had the broad bipartisan support of the provisions which fenced off the money so that we would not endanger the citizens and the communities of the targeted facilities that the detainees from Guantanamo would come to that we took that fencing off of the money to preclude the funding of shipping terrorists here, to now say that we're going to be safer, it is a better policy for us to try and achieve the rights and protect the rights of the terrorists at the potential expense of endangering U.S. citizens?

I yield to the gentleman.

Mr. HOYER. As the gentleman knows, there's no money in here for transferring. The $80 million that was requested was not included in the House; was not included in the Senate; it's still not included. The bill prohibits current detainees from being released in the continental United States, Alaska, Hawaii or D.C., as the gentleman knows. It prohibits current detainees from being transferred to the current United States, Alaska, Hawaii or D.C., except to be prosecuted and only after Congress receives a plan detailing: risks involved and a plan for mitigating such risk; cost of the transfer; legal rationale and court demands; and a copy of the notification provided to the Governor of the receiving State 14 days before a transfer with a certification by the Attorney General that the individual poses little or no security risk.

In addition, the bill provides current detainees cannot be transferred or released to another country unless the President submits to Congress 15 days prior to such transfer: the name of the individual and the country the individual will be transferred to; an assessment of risks posed and actions taken to mitigate such risks; and the terms of the transfer agreement with the other country, including any financial assistance.

Lastly, it requires the President to submit a report to Congress describing the disposition of each current detainee before the facility can be closed.

But let me say in the final analysis, many Republicans, including the former Secretary of State, Colin Powell, Chairman of the Joint Chiefs of Staff, adviser to a number of Republican Presidents, said on a news program almost a year ago now that he believed that Guantanamo ought to be closed; he believed it should have been closed yesterday when he was speaking. That was a year ago. The President of the United States has indicated he thinks Guantanamo ought to be closed. There is disagreement on that. I understand that. But if it's going to be closed, a plan has to be effected for the purpose of dealing with those who are at Guantanamo, and the President is working on such a plan. The Congress in both bodies made a determination until we have such plan, we're not going to take action to facilitate that. That's what I think the conference agreement sets forth, and I think it sets forth protections that can give the American people a confidence level.

Let me say something additional to the gentleman. I'm older than the gentleman. When I was a child, approximately 4 or 5 years of age, I was living in Mexia, Texas. My father, born in Denmark, served in the U.S. Army. He was in his forties and wasn't sent overseas. He was the finance officer at a POW camp in Mexia, Texas. Mexia, Texas is a town of about 7,500 people—apparently then and now. I asked somebody about it just recently. There were 4,000 Nazi troops in a POW camp in Mexia, Texas. They were kept there. They were not necessarily terrorists. We need to take special precautions.

But in the pursuance of the policies enunciated by the President of the United States when he ran for office, when he was substantially elected by the American people, he told them exactly what he thought ought to be done. He is pursuing what he said to the American people he would do. He is doing it in my opinion in a thoughtful way that will protect the American public and will bring to justice those who have committed international crimes. I think that is something that we are trying to work through.

I want to reiterate. The gentleman has now mentioned so many times that we have allowed the funding of the troops to get caught up with other issues. Surely the gentleman, I know, does not mean, because he's been here long enough to know, that when the House and the Senate and the Presidency were in the hands of his party, the funding of the troops got tied up from time to time with other issues. That's the nature of the legislative process. But I'm hopeful that the gentleman, because he's so focused on getting this money to the troops quickly, will urge all of his colleagues on Tuesday to join with us in voting to fund the troops.

Mr. CANTOR. I thank the gentleman and his plea for support in his bill, knowing good and well that this bill did not go out of this House without some support from Republicans that were necessary for its passage in its original form.

I would just say to the gentleman and thank him for his description of the POW camp in Texas. But here we are dealing with individuals who are not necessarily soldiers of war, they're enemy combatants, an entirely different set of circumstances that we have today.

Mr. HOYER. Will my friend yield on that question?

Mr. CANTOR. I will yield.

Mr. HOYER. I thank the gentleman for yielding.

He and I are probably two of the strongest supporters in this body. Those POWs were part of a regime that killed 6 million people. I remind him,

and the gentleman doesn't need reminding of that, but these were not simply soldiers of a regime that was pursuing a war that you and I might view in a different way.

Mr. CANTOR. Reclaiming my time, I would just say to the gentleman, as he does know, there were applicable provisions at law which govern the treatment of soldiers at war and there is a much less definitive, more nebulous environment in which we are to look towards enemy combatants, which is my point. Because with the trial of enemy combatants on U.S. soil, we are confronting, as the gentleman knows, cases of first impression at every turn, and we are confronting uncertainty as to the disposition of these cases which brings up potential harm for U.S. citizens.

I would just go back to the gentleman's plea that he would like to see us support this bill. If the primary purpose is to maintain, promote the security and safety of our troops and provide them with funding, it is a reach for me to understand how allowing for a release of photos, how allowing for the transfer of enemy combatants—terrorists—to U.S. soil furthers that end.

So I would say in closing, Madam Speaker, if the gentleman is satisfied with deferring to the White House and deferring to this President on the very core purpose of securing this country at all levels and doesn't feel the Congress should take affirmative action, then I believe his support of this bill is well put. But it is certainly the opinion of many of us in this House as indicated by votes as late as yesterday that we can do better, that we can take action to secure our troops, get them the money they need and get rid of the unrelated items in this bill.

Mr. HOYER. I simply want to observe, as I pointed out in the five or six points I made, particularly that current detainees cannot be transferred or released to another country without notice to us, nor can they be released here in the United States without further action. So that the gentleman's premise is, I think, not correct, that this President has the authority to, or the intent to release people at this time in the United States before or after trial.

Having said that, I would say, the gentleman continues to talk about the add-ons, but I will tell the gentleman, as the gentleman knows, over 80 percent of this bill deals with the funding and security of our troops and the prosecution of the effort to defeat terrorism. Over 80 percent of this bill. It is in that context that I would hope the gentleman would see his way clear to urging his colleagues to join with us in passing this needed legislation.

Mr. CANTOR. Madam Speaker, I thank the gentleman very much for his suggestion and counsel, and I yield back the balance of my time.

ADJOURNMENT TO MONDAY, JUNE 15, 2009

Mr. HOYER. Madam Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday next for morning-hour debate, and further, when the House adjourns on that day, it adjourn to meet at 10:30 a.m. on Tuesday June 16, 2009, for morning-hour debate.

The SPEAKER pro tempore (Ms. KILROY). Is there objection to the request of the gentleman from Maryland?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

COMMENDING SOUTH ORANGETOWN SCHOOLS SUPERINTENDENT KEN MITCHELL

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Madam Speaker, I rise today to commend South Orangetown Schools Superintendent Ken Mitchell in Rockland County in my district for his quick reaction and his bravery as he singlehandedly prevented what could have been a terrible tragedy in South Orangetown Middle School.

According to reports, a man came into the school, stormed past security and demanded at gunpoint that Mr. Mitchell make changes to a letter on swine flu. He certainly picked the wrong person to threaten when he took on Mr. Mitchell, a former hockey player and coach. The 55-year-old superintendent was able to tackle him and disarm him before police were able to break into the locked office to apprehend the suspect.

Thankfully, no one was hurt.

Why someone would enter a school with a gun is something I will never understand. It's disturbing to even fathom what could lead someone to choose to do that. However, it is heartening to realize that someone like Ken Mitchell is standing in their way.

The dedication shown by Mr. Mitchell to the children should be an example to all. Our Nation has witnessed too many deaths of our children in their schools. The people of the South Orangetown school system and the community as a whole owe him a huge debt of gratitude.

Hero is an overused word in today's world, but I can think of fewer situations which more warrant that word than protecting children in their classrooms. Ken Mitchell is truly a hero.

VIETNAM MUST RESPECT THE RULE OF LAW

(Mr. CAO asked and was given permission to address the House for 1 minute.)

Mr. CAO. Madam Speaker, although we live in the 21st century, many people today are still deprived of life, liberty or property without due process of law by governments that lack the rule of law. One such government is the Socialist Republic of Vietnam.

About 10 years ago, the Vietnamese Ministry of Labor, War Invalids, and Social Affairs directly oversaw and operated two state-owned labor companies that were involved in the largest human trafficking case ever prosecuted by the U.S. Department of Justice. The case thoroughly documented the exploitation and abusive conditions faced by more than 230 workers at the Daewoosa factory in American Samoa. These victims were beaten, starved, sexually harassed and threatened with deportation. The High Court of American Samoa subsequently found these state-owned labor agencies liable for the atrocities and made them pay $3.5 million to the victims. Almost 10 years after the ruling, Vietnam still refuses to acknowledge its part in these atrocities and pay.

Madam Speaker, I ask that the U.S. Congress demand that the Vietnamese government pay the damages and respect the rule of law.

□ 1245

CONTINUING BONUSES FOR BANKERS

(Ms. KAPTUR asked and was given permission to address the House for 1 minute.)

Ms. KAPTUR. Madam Speaker, since January, the American people have endured another loss of $1.33 trillion of their wealth, having already faced the worst drop in wealth since 1951 in the prior quarter. Yet despite being at the root of our economy's tailspin, Wall Street continues to issue huge bonuses.

For example, Merrill Lynch has issued $4 billion in bonuses to the very bankers and financiers who created this mess that are now nested over at the Bank of America. This is yet another sign that America needs to rein in the false money wizards and reward those who create real wealth in our society, starting with hardworking Americans.

So let me ask the question, when will Wall Street's profits translate into a better life for everyone else? With wealth declining and unemployment rising, America should not be hollowed out by Wall Street. Rather, Wall Street's business should translate into a better way of life for the American Republic. We have wandered far from that mark.

AMERICANS' NET WORTH SHRINKS $1.33 TRILLION IN 1Q

(By Jeannine Aversa)

WASHINGTON.—American households lost $1.33 trillion of their wealth in the first three months of the year as the recession took a bite out of stock portfolios and dragged down home prices.

The Federal Reserve reported Thursday that household net worth fell to $50.38 trillion in the January-March quarter, the lowest level since the third quarter of 2004. The

first-quarter figure marked a decline of 2.6 percent, or $1.33 trillion, from the final quarter of 2008.

Net worth represents total assets such as homes and checking accounts, minus liabilities like mortgages and credit card debt.

The damage to wealth in the first quarter came from the sinking stock market. The value of Americans' stock holdings dropped 5.8 percent from the final quarter of last year.

The stock market began to rally from 12–year lows in early March after Citigroup Inc. reported it was profitable in the first two months of the year. Since peaking in October 2007, it had been the worst bear market since the aftermath of the crash of 1929.

Another hit came from falling house prices. The value of household real-estate holdings fell 2.4 percent, according to the Fed report.

Collectively, homeowners had only 41.4 percent equity in their homes in the first quarter. That was down from 42.9 percent in the fourth quarter and was the lowest on records dating to 1945.

The Case-Shiller national home price index, a closely watched barometer, last month estimated that house prices dropped 7.5 percent during the first quarter. Prices have fallen 32.2 percent since peaking in the second quarter of 2006.

The latest snapshot of Americans' balance sheets was contained in the Fed's quarterly report called the flow of funds.

Despite the drop, the speed at which net worth shrunk slowed at the start of the year. During the recession's deepest point in the October-December period, Americans' net worth fell a record 8.6 percent, according to revised figures. That was the largest drop on records dating to 1951.

With wealth declining and unemployment rising, there are questions about how consumers—the lifeblood of the economy—will behave in the coming months.

If they continue to spend, even at a subdued pace, the recession likely will end this year as predicted by Fed Chairman Ben Bernanke and other economists. However, if consumers hunker down and cut spending again, that could delay any recovery. In the final quarter of last year, Americans slashed spending at an annualized rate of 4.3 percent, the most in 28 years.

Still, there was some encouraging news on consumer spending Thursday.

Retail sales rose 0.5 percent in May, following two straight monthly declines, the Commerce Department reported. Meanwhile, the number of newly laid-off workers filing for unemployment benefits fell last week by 24,000 to 601,000, the lowest level since late January.

DON'T GIVE TERRORISTS CONSTITUTIONAL RIGHTS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Madam Speaker, ''You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney present during questioning. If you cannot afford an attorney, one will be appointed for you.''

American citizens are read these rights when they are taken into police custody. But the Obama administration has decided to give these rights to suspected terrorists overseas.

Why would the Obama administration give terrorists the same rights as American citizens? Members of al Qaeda and the other terrorist groups should be treated as what they are, America's enemies engaged in a war against the United States.

Giving terrorists constitutional rights is like giving a burglar the key to your house.

CONCERNS WITH A GOVERNMENT-RUN HEALTH CARE PLAN

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, Republicans are committed to health care reform, and we have and will continue to offer positive solutions to achieve accessible, affordable health care for all Americans. Unfortunately, as Democrats sat behind closed doors to develop their plan, it appears they have failed to answer some troubling concerns about what seems quite likely to be an unwarranted government takeover of the health care system.

So in the spirit of honest debate, I ask my Democrat colleagues how they expect to pay for a government insurance plan without raising taxes or driving up the national debt. How will a government-run health plan not lead to the same rationing of care that we have seen in other countries? How will a government-run health plan protect the doctor-patient relationship, when Washington will now be empowered to pick and choose what procedures and treatments are, in their opinion, cost beneficial?

Before we turn congressional offices into waiting rooms, I hope my Democrat colleagues will answer these questions.

In conclusion, God bless our troops, and we will never forget September the 11th and the Global War on Terrorism.

NO NEW TAXES, NO NEW SPENDING, NO NEW DEBT

(Mr. CULBERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CULBERSON. Madam Speaker, I just finished speaking to the Bunker Hill and Wilchester Elementary School students, and I want to bring to the attention of the people here in the audience and out there the cover of the new Economist magazine which expresses beautifully the terrible, terrible burden that this Congress, this liberal majority, is passing on to our kids.

Now, there was debt run up under the previous administration. I as a member of the fiscally conservative minority voted against $2.3 trillion worth of new spending under the previous administration. I already voted against $1.6 trillion in this administration. And no matter who you are, fiscal conservative or liberal, each one of us needs to remember as parents, as husbands, as responsible citizens, that we cannot pass on a burden of debt to our kids.

On every vote on every issue, we need to remember that our children are inheriting the biggest debt and the biggest deficit in our Nation's history. As bad as the deficit was under Mr. Bush, the Economist points out it will quadruple this year and stay over $1 trillion a year out into the future.

Madam Speaker, on every vote on every issue, this Congress needs to cut spending. No new taxes, no new spending, and no new debt.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

(Mr. PAUL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

THE WAR FOR THE BORDER CONTINUES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Madam Speaker, the out-of-control violence along our border is made up of more complex elements than most people realize. The criminal cartels controlling our southern border are a lot more powerful than we are led to believe. They are international organized crime cartels that make money off the weaknesses of others. They traffic drugs, money, weapons and human beings across our southern border. They leave death, doom, and destruction in their wake.

Make no mistake about it, there is corruption on both sides of the border that facilitates the lawlessness that is taking place there. Just last month the former sheriff of Starr County, Texas, Rey Guerra, pled guilty to Federal narcotics charges. He admitted to facilitating intelligence that helped Mexican drug traffickers invade the United States and evade counternarcotics efforts. That included trying to find out the identity of confidential informants.

Madam Speaker, he needs to be locked up forever for his betrayal of this country and law enforcement. But he is just one of a growing number of recruits from both sides of the border that are facilitating this avalanche of corruption and anarchy along the southern frontier.

The Mexican criminal cartels have added a layer of intelligence that better resembles foreign recruitment of spies during the Cold War than a traditional criminal enterprise. The huge

amounts of money paid to these officials allow these criminals to traffic people and drugs into our land.

There is a huge difference in the size and scope of these international criminal law activities and the typical domestic law enforcement agencies and their duties. As more and more of the violence spills over into Texas and other border States, there is an urgent need to get this lawlessness under control.

The cost of this culture of crime is hammering border States. The FBI is stretched too thin, they don't have the manpower to address this cross-border corruption, and they are fighting domestic Federal crime and jihadists.

Right now we are asking local sheriffs in border States to do double duty, as if they are agents of Interpol. Our domestic police forces should be freed up to do what they do best, fight crime in their counties and their communities.

Our Drug Enforcement Agency is doing a noble effort to control these international criminal cartels that more and more resemble an army at the border than the Cosa Nostra, but the FBI has not been given enough American resources. The Border Patrol is overrun, outmanned, and outgunned.

Our government has limited their rules of engagement. Their standard operating procedure is nonconfrontational. Heavily armed bad guys come through with their contraband of drugs and humans, and yet little is done when they confront our Border Patrol. These cartels are made up of a hybrid of many of the worst elements of organized crime. They include terrorist cells, international espionage agencies, and a foreign military.

But why are we acting as if we can no longer defend our borders and citizens from this lawlessness? It is the philosophy of some that we should wave the white flag of surrender and lessen, not strengthen, our border security. This is absolute nonsense. The Mexican organized criminal cartels are sophisticated, and they are deadly. Maybe it is time to put the United States military on the border. There is no higher duty for the American military than to protect the borders of its own Nation from international criminal invasion.

It is interesting, Madam Speaker. We use our military thousands of miles away to fight the drug war in Afghanistan, but we won't use them at home. Why not? There is no answer from the administration.

We should rotate deployments of our military to the southern border. Our brave men and women are routinely deployed for desert training. Why not concentrate these deployments on the border? This frees up our domestic law enforcement to do the job they should be doing, which is rooting out corruption on our side of the border.

Madam Speaker, I have flown with the National Guard along the Texas-Mexico border. They do a tremendous job working with the Border Patrol and the DEA. But a handful of helicopters is not enough to secure the border. The Air National Guard needs more equipment, more money and more troops to capture the outlaw cartel gangs. The U.S. gave Mexico $1.5 billion to fight the cartels. That money should have been given to our border protectors, not the culture of corruption on the Mexican side of the border.

A lot of attention has been rightly focused on our southern border over the past few years. We have increased the boots on the ground, installed some cameras and erected some barriers and fences and sensors. The efforts have not sealed the border, however.

As the violence gets worse in Mexico, we must get a border strategy in place now before it erupts into a level of widespread violence and more corruption that engulfs our own citizens.

It is not going away, Madam Speaker. The drug cartels are in it for the long haul because of their lust for money. There is a war against drugs going on on the border, even though we are told now that we should not, because of political correctness, use that term.

The first duty of government is to protect the people. The government needs to focus on border protection. Meanwhile, the border war continues.

And that's just the way it is.

ENDING MILITARY OPERATIONS IN IRAQ AND AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, the supplemental appropriations bill to continue our military operations in Iraq and in Afghanistan will soon return to the House for another vote. I voted against it in the first place, and I am going to vote against it again. I cannot support it because it will prolong our military involvement in Iraq and it will increase our military buildup in Afghanistan.

I would gladly vote to fund the safe withdrawal of our troops and contractors out of Iraq. But the supplemental gives me a feeling of deja vu. Haven't we been there before, voting to include billions of dollars for the occupation of Iraq?

Congress has voted to increase funding for Iraq many times, even though the American people want the occupation to end, and it seems the Iraqi people want us out of their country as well.

The supplemental also calls for sending more troops to a foreign land, this time Afghanistan, with no exit strategy. Talk about repeating past mistakes. Talk about deja vu. Afghanistan feels exactly the same as Iraq did to me.

President Obama has said that a campaign against extremism will not succeed with bullets and bombs alone. He is absolutely correct about that. But the money in the supplemental is overwhelmingly devoted to military operations. It includes very little for the economic development, humanitarian aid, and diplomatic efforts that we really need to stop extremists in Afghanistan and in Pakistan.

The ratio is 90–10, 90 percent to the Department of Defense, 10 percent to the smart alternatives. I believe the supplemental also violates the spirit of President Obama's historic speech in Cairo where he offered the Muslim world the hand of friendship. In that speech he said that we must leave Iraq to the Iraqis. But the supplemental will only delay the return of sovereignty to the Iraqi people.

And then there is the little matter of the recession, Madam Speaker. When the American people are feeling such great pain and need so much help right here at home, we can't afford to squander another $100 billion on foreign military adventures that will not make our country safe.

□ 1300

Instead of approving the supplemental bill, the House should be urging the administration to fundamentally change our mission in Iraq, and our mission in Afghanistan. We can do this in several ways.

First, we should support the bill offered by JIM MCGOVERN of Massachusetts, which calls upon the administration to submit an exit strategy for Afghanistan.

Second, I urge my colleagues to consider the plan that I have offered in House Resolution 363. It's called the Smart Security Platform For the 21st Century. Smart Security attacks the root causes of violence by fighting poverty and giving people hope for a better future. It controls the spread of nuclear and conventional weapons of mass destruction, and it strengthens our national security by reducing our dependence on foreign oil.

And finally, we should insist that at least 80 percent of all future funding for Afghanistan be devoted to the Smart Security I just described. Right now, the supplemental, as I told you, devotes more than 90 percent of its dollars to purely military efforts, efforts that are getting us nowhere.

Madam Speaker, we must not repeat the mistakes of the past. We've got to stop writing more blank checks for open-ended occupations. This is what the American people want, and Congress must listen.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

HONORING WILLIAM C. ''DUB'' McCARTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

Mr. HENSARLING. Madam Speaker, I rise today to honor the life of William C. ''Dub'' McCarty, and recognize his commitment and service to his community, the State of Texas and to our great Nation.

Dub, a resident of Athens, Texas, passed away last month. He was a loving husband of 58 years to JoAnn. He was a proud father to daughters Cynthia and Mary Lou. He was a devoted grandfather of Cole, Kyle, and Michelle, and great grandfather of Kristen, Preston, and Daniel. And finally, Madam Speaker, he was my dear friend.

Dub was born in 1929 in Scurry County, Texas, and graduated from Lamesa High School. After graduation, Dub proudly, proudly defended our Nation during the Korean war by serving in the United States Army.

When his service ended, Dub began what became a legacy of leadership in our free enterprise system and service to his community.

Dub returned to Lamesa to work and eventually own his own clothing business. He gave back to his small West Texas community by shaping the lives of younger men as an Order of DeMolay Dad and as a longtime Boy Scout leader in Lamesa.

Dub then moved to my hometown of Dallas, Texas, where he began a long career in corporate group insurance management. After that though, he set his sights eastward to the pine trees and lakes of East Texas, and began a fire and casualty insurance business in Henderson County.

As a business owner, he helped countless members of his community achieve their American dream, and he took great pride in his community. His record of service today is still unmatched in East Texas. He served as the Cedar Creek Chamber of Commerce president. He helped establish the Cedar Creek Library. He was a charter member of the library's board of directors, and he and his wife, JoAnn, worked tirelessly to support and grow that library. He led the Cedar Creek Kiwanis Club and was Division 26 lieutenant governor for over two years.

He served as secretary treasurer of the Athens Kiwanis Club. He took a leadership in their annual pancake breakfast. He was an active member of the Athens Rotary Club. And, Madam Speaker, the list of community service goes on and on.

Now, we all know across America that the Rotary motto is ''service above self.'' Dub lived those words every day of his life. He led by example, and his example represents the best of the American character.

Madam Speaker, Dub was not indifferent to the direction of his State and Nation either. He cared passionately about faith and family and free enterprise and freedom, and he chose to put his principles into action by serving as chairman of the Henderson County Republican party for 8 years. That's where I first met Dub McCarty, this kind, giving, caring individual. He was always upbeat. He always had a smile on his face and he always knew that if we worked together, that America's best days would lay ahead of her. He made a difference.

As the congressman for the Fifth District of Texas, I'm honored and, frankly, humbled to recognize my good friend, Dub McCarty. On behalf of all the constituents of the Fifth District of Texas, and a grateful Nation, I would like to extend our heartfelt condolences and prayers to JoAnn and the family.

Dub will be greatly missed, but I take solace in knowing that his contributions will live on, and that the people who had their lives touched by Dub McCarty will never forget.

Madam Speaker, I am one of those people.

Godspeed to Dub McCarty. He has left us, but he has gone on to now hear those words in a different place, ''Well done, good and faithful servant.''

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

(Mr. SCHIFF addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

DENOUNCING THE MURDEROUS ATTACK ON THE HOLOCAUST MEMORIAL MUSEUM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of New Jersey. Madam Speaker, yesterday, as ranking member of the Africa Subcommittee, I joined several colleagues at an important Foreign Affairs Committee meeting with Prime Minister Morgan Tsvangirai of Zimbabwe. It was an extraordinary opportunity to discuss Zimbabwe's progress towards democracy and away from dictatorship, its problems with hyperinflation, and multiple health crises, including cholera, and to obtain a fuller understanding of what additional steps the United States can take right now to help.

That meeting, however, occurred at precisely the same time that the House considered H. Res. 529, a resolution condemning the June 10th violent attack on the Holocaust Memorial Museum, a despicable anti-Semitic act that killed Officer Stephen Tyrone Johns. And as so eloquently articulated by so many of my colleagues yesterday during that debate, we salute Officer Johns for his bravery and his courage, and extend our deepest condolences to his family.

I rise today not only to express my support for H. Res. 529, but also to thank my good friend and colleague, Mr. KLEIN, for introducing it and for including me as a cosponsor.

Madam Speaker, the Holocaust Memorial Museum is a noble and vitally necessary attempt to remember and honor the victims of the Holocaust. The memorial itself is a witness to truth and the promotion of human dignity and tolerance.

Wednesday's attack on that museum by a crazed, hate-filled gunman is yet another chilling reminder that our society still harbors a dangerous collection of bigots and racists who hate Jews.

Unparalleled since the dark days of the Second World War, Jewish communities around the world are today facing violent attacks against synagogues, Jewish cultural sites, cemeteries and individuals. Anti-Semitism is an ugly reality that won't go away by ignoring it or by wishing it away. It must be combated with resolve and tenacity, and it must be defeated.

The sad and deeply troubling reality is that James von Brunn cannot be dismissed as an aberration, but is connected to a whole hate-promoting movement that results in violence against Jews in America and around the world on practically a daily basis.

The Anti-Defamation League recently issued its annual audit of anti-Semitic incidents. While the ADL is to be congratulated for its careful research on an unpleasant but absolutely necessary subject, the ugly facts that the report documents makes for painful reading.

In 2008, the ADL noted 1,352 reported incidents of vandalism, harassment, and physical assaults on Jewish people or Jewish-owned property nationwide. Sadly, and shamefully, my own State of New Jersey had more reported anti-Semitic incidents, 238, than any other State in the Union.

The attack on the Holocaust Museum is the most ominous aspect of this evil wave that we have seen worldwide and in our own country. The Holocaust Museum is a unique institution. It is a memorial, a museum, a center of Holocaust scholarship, and a promoter of tolerance and preventer of genocide. It is a very powerful symbol of the solidarity of America with those murdered in the Holocaust, and with the Jewish people as well.

Madam Speaker, at this critical moment, we need government officials at all levels to denounce, without hesitation or delay, every anti-Semitic act, wherever and whenever it occurs, no exceptions. At this moment, not to speak out enables the purveyors of hate. They never take a holiday. They never grow weary, nor should we.

Just as Mr. Brunn attacked the Holocaust Memorial Museum and murdered a courageous security officer tasked with its protection, Holocaust remembrance and tolerance education must dramatically expand, and we need to

ensure that our respective laws punish those who hate and incite violence against Jews.

Finally, if we are to protect our children from the evil of anti-Semitism, we must re-educate ourselves and systematically educate our children. While that starts at our homes, the classroom must be the incubator of tolerance as well. It seems to me that only the most hardened racist can remain unmoved by Holocaust education and remembrance. Only the most crass, evil and prejudiced among us can study the horrors of the Holocaust and not cry out: Never again!

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. RICHARDSON) is recognized for 5 minutes.

(Ms. RICHARDSON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

(Mr. MORAN of Kansas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. FLAKE) is recognized for 5 minutes.

(Mr. FLAKE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO THE ACTIONS AND POLICIES OF CERTAIN MEMBERS OF THE GOVERNMENT OF BELARUS AND OTHER PERSONS THAT UNDERMINE DEMOCRATIC PROCESSES OR INSTITUTIONS IN BELARUS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 111–47)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

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. In accordance with this provision, I have sent to the Federal Register for publication the enclosed notice stating that the national emergency and related measures blocking the property of certain persons undermining democratic processes or institutions in Belarus are to continue in effect beyond June 16, 2009.

Despite some positive developments during the past year, including the release of internationally recognized political prisoners, the actions and policies of certain members of the Government of Belarus and other persons that have undermined democratic processes or institutions, committed human rights abuses related to political repression, and engaged in public corruption pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency and related measures blocking the property of certain persons undermining democratic processes or institutions in Belarus.

BARACK OBAMA.

THE WHITE HOUSE, *June 12, 2009*.

COUNCIL ON AMERICAN-ISLAMIC RELATIONS—CAIR

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Virginia (Mr. WOLF) is recognized for 60 minutes as the designee of the minority leader.

Mr. WOLF. Madam Speaker, as ranking member on the Commerce, Justice, Science Appropriation Subcommittee, which last week considered the fiscal year 2010 appropriations bill, I have a keen interest in and oversight responsibility for a host of counterterrorism and related initiatives.

The bill which is expected to come before the full House next week includes $7.7 billion to support the work of the Federal Bureau of Investigation, the FBI, whose top priorities include protecting and defending the United States against terrorism and foreign intelligence threats.

□ 1315

The FBI was intimately involved in a 15-year investigation, which culminated last fall in the Holy Land Foundation and five of its former organizers being found guilty of illegally funneling more than $12 million to the terrorist group Hamas.

A Department of Justice press release issued May 27, 2009, reported, ''U.S. District Judge Jorge A. Solis sentenced the Holy Land Foundation for Relief and Development and five of its leaders following their convictions by a Federal jury in November 2008 on charges of providing material support to Hamas, a designated foreign terrorist organization.'' The sentences range from 15 years to 65 years in prison.

According to the Department of Justice, ''From its inception, the Holy Land Foundation existed to support Hamas. The government's case included testimony that, in the early 1990s, Hamas' parent organization, the Muslim Brotherhood, planned to establish a network of organizations in the U.S. to spread a militant Islamist message and raise money for Hamas. The defendants sent Holy Land Foundation-raised funds to Hamas-controlled zakat committees and charitable societies West Bank and Gaza.''

Among the unindicted conspirators in the case is an organization which, over the last several years, has been granted access to the highest levels of the U.S. Government—an organization which is routinely elevated in the press as a voice of mainstream Muslim Americans. This organization is the Council on American-Islamic Relations, or CAIR.

Tawfik Hamid, according to his bio, is an ''Islamist thinker and reformer and onetime Islamist extremist from Egypt. He was a member of a terrorist Islamic organization, Jemaah Islamiyah, with Dr. Ayman al-Zawahiri, who became later the second in command of al Qaeda.

On May 25 of 2007, in a Wall Street Journal op-ed, Hamid wrote the following, ''In America, perhaps the most conspicuous organization to persistently accuse opponents of Islamophobia is the Council of [sic] American Islamic Relations.'' The observations of Mr. Tawfik, himself a Muslim, are particularly relevant in light of recent news reports.

On January 30, 2009, Fox News reported that the FBI was ''severing its once close ties with the Nation's largest Muslim advocacy group, the Council on American-Islamic Relations, amid mounting evidence that it has links to a support network for Hamas.''

Given that Hamas is on the current list of U.S.-designated foreign terrorist organizations, this was obviously a serious claim and one which, if true, would rightly inform a shift in FBI policy. However, the Fox News piece left me with some unanswered questions, questions which, given the seriousness of the report, necessitated further inquiry. Such questions of the executive branch are a common congressional practice and, in fact, are the responsibility of the legislative branch of government and are the intended purpose of our system of checks and balances.

For 6 years, from 2001–2006, I served as chairman of the appropriations subcommittee which has oversight of the FBI. This year, I resumed a leadership role as the lead Republican on the subcommittee.

According to the Congressional Research Service, ''Congressional oversight refers to the review, monitoring and supervision of Federal agencies, programs, activities, and policy implementation. It is an integral part of the American system of checks and balances.''

A young Woodrow Wilson, before becoming President, put it this way. He said, ''Quite as important as legislation is vigilant oversight of administration.''

Needless to say, I take very seriously the responsibility of congressional oversight, especially in matters with potential national security implications. In this spirit of oversight, I wrote to the FBI on February 2, seeking additional information and clarification regarding the Bureau's decision about its relationship with CAIR.

For the RECORD, I submit a copy of the letter.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 2, 2009.

Mr. MICHAEL J. HEIMBACH,
Assistant Director, Counter Terrorism Division, Federal Bureau of Investigation, Washington DC.

DEAR MR. HEIMBACH: I write regarding the bureau's position on meeting with the Council on American Islamic Relations (CAIR). Over the weekend I saw a FOX News report (enclosed) that the Federal Bureau of Investigation (FBI) has cut off ties with CAIR ''amid mounting evidence that it has links to a support network for Hamas.'' Given that Hamas is on the current list of U.S. designated foreign terrorist organizations, this is obviously a serious claim, one which would rightly inform a shift in FBI policy.

In response to this report, I request answers to the following questions:

Has the FBI severed ties with CAIR? If so, how is the FBI planning to formally notify Members of Congress and other government officials of this decision?

If FBI policy has changed with regard to CAIR, is there any indication that this decision is being revisited by the new administration? If so, what new evidence would justify a change in course?

Is CAIR's national office still in contact with the FBI?

The report quotes Assistant Director John Miller from the FBI Office of Public Affairs as saying: ''The FBI has had to limit its formal contact with CAIR field offices until certain issues are addressed by CAIR's national headquarters.'' What specifically are the ''certain issues'' which you have raised with CAIR? Is there still informal contact with any field offices? If so, what is the distinction between formal and informal and why is there a distinction between field offices?

To your knowledge, does CAIR receive financial contributions from foreign sources? If so, which ones and how much?

I look forward to your timely response, and to working with you in the days ahead in my new role as ranking member of the House Commerce-Justice-Science Appropriations subcommittee.

Best wishes.

Sincerely,

FRANK R. WOLF,
Member of Congress.

The Fox News piece, which prompted my initial interest, quoted the assistant director of the Office of Public Affairs at the Bureau as saying, ''The FBI has had to limit its formal contact with CAIR field offices until certain issues are addressed by CAIR's national headquarters.''

I found this statement to be vague. While perhaps sufficient from a public affairs vantage, I believed it to be an insufficient explanation for Members of Congress, none of whom, to my knowledge, had been informed of this policy shift, and it was just that—a policy shift.

The FOX piece noted later that the FBI has ''long been close to CAIR. The agency has previously invited CAIR to give training sessions for agents and used it as a liaison with the American Muslim community.''

I was one of several Members of Congress, both Democrat and Republican, who wrote the Bureau in the days following this report. Some, such as Republican Senator JON KYL of Arizona and Democratic Senator CHUCK SCHUMER of New York, voiced their support for the Bureau's decision, which was a step further than my initial letter; but they, too, desired to ''understand the situation more fully'' as Senators KYL and SCHUMER wrote.

When I received a response from the FBI on March 9, only 1 of the 10 questions I posed was answered, which prompted me to send a second letter restating the original questions and pressing the FBI for a timely and detailed response.

I submit a copy of that letter for the RECORD.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 9, 2009.

Mr. MICHAEL J. HEIMBACH,
Assistant Director, Counter Terrorism Division, Federal Bureau of Investigation, Pennsylvania Ave., NW, Washington DC.

DEAR MR. HEIMBACH: I was deeply disappointed with the FBI's response—hand-delivered to my office last Friday—to my letter of February 2 inquiring about the Bureau's position on meeting with the Council on American Islamic Relations (CAIR). It took the Bureau more than a month to respond, and the letter I received provides only a partial answer to one of the 10 questions I posed.

In 1998 I authored the legislation that created the National Commission on Terrorism. Regrettably its recommendations were not implemented until after the attacks on 9/11. I take seriously the responsibility of congressional oversight, especially in matters with potential national security implications. For six years I served as chairman of the appropriations subcommittee with jurisdiction over the FBI and count myself among the Bureau's strongest supporters. Having resumed a leadership role this year as ranking member on the Commerce-Justice-Science Appropriations subcommittee, it is important to me that the FBI provide timely and detailed responses. And so again, I request answers to the following straightforward questions:

Has the FBI severed ties with CAIR? If so, how is the FBI planning to formally notify Members of Congress and other government officials of this decision?

If FBI policy has changed with regard to CAIR, is there any indication that this decision is being revisited by the new administration? If so, what new evidence would justify a change in course?

Is CAIR's national office still in contact with the FBI?

The FOX News report I referenced in my original letter quotes Assistant Director John Miller from the FBI Office of Public Affairs as saying: ''The FBI has had to limit its formal contact with CAIR field offices until certain issues are addressed by CAIR's national headquarters.'' What specifically are the ''certain issues'' which you have raised with CAIR? Is there still informal contact with any field offices? If so, what is the distinction between formal and informal and why is there a distinction between field offices?

To your knowledge, does CAIR receive financial contributions from foreign sources? If so, which ones and how much?

I would like these questions fully answered by this Friday, March 13, and by someone who works on counter-terrorism, rather than a public affairs officer. Other members of Congress, both House and Senate, have expressed interest in and additional information about the Bureau's position as it relates to CAIR. I would think the Bureau would be embarrassed to send the insufficient response I received.

Best wishes.

Sincerely,

FRANK R. WOLF,
Member of Congress.

Days after my second letter, CAIR launched a public attack against me, claiming in a March 12 press release that I ''abused'' my ''office'' by ''seeking to pressure the FBI to produce negative information'' about the organization.

Those assertions are patently untrue and would not even warrant a response were they not symptomatic of what I believe to be a larger pattern of intimidation undertaken by CAIR—intimidation which is of great consequence given the national security matters at stake.

As my letters to the FBI indicate, I was seeking to better understand the Bureau's position and access information about what led to this decision. It is a conclusion which—and I agree with my Senate colleagues—is absolutely appropriate based on reports I have read for years but which, again, marks a change in course for the Bureau and, as such, deserved further explanation.

It is noteworthy that, on April 28, following my initial unsatisfactory reply from the Bureau, Senator KYL received a more substantive response from the FBI to his letter. In the letter to Senator KYL, the Bureau was more detailed in explaining and in validating the original news report regarding its relationship with CAIR.

The letter reads, ''As you know, CAIR was named as an unindicted co-conspirator of the Holy Land Foundation for Relief and Development in the United States v. Holy Land Foundation, et al.

''During that trial, evidence was introduced that demonstrated a relationship among CAIR, individual CAIR founders, including its current president emeritus and its executive director, and the Palestinian committee. Evidence was also introduced that demonstrated a relationship between the Palestinian committee and Hamas, which was designated a terrorist organization in 1995. In light of that evidence, the FBI suspended all formal contacts between CAIR and the FBI.

''The FBI's decision to suspend formal contacts was not intended to reflect a wholesale judgment of the organization and its entire membership. Nevertheless, until we can resolve

whether there continues to be a connection between CAIR or its executives and Hamas, the FBI does not view CAIR as an appropriate liaison partner.''

I submit a copy of the Bureau's response to Senator KYL for the RECORD.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, April 28, 2009.

Hon. JON KYL,
U.S. Senate,
Washington, DC.

DEAR SENATOR KYL: This responds to your letter to Director Mueller dated February 24, 2009, regarding your interest in reports that the FBI has severed its liaison relationship with the Council on Islamic Relations (CAIR). I apologize for the delay in responding to your inquiry. For your information an identical letter has been sent to Senator Schumer and to Senator Coburn, M.D.

As you know, CAIR was named as an unindicted co-conspirator of the Holy Land Foundation for Relief and Development in United States v. Holy Land Foundation et al. (Cr. No. 3:04–240–P (N.D.TX.). During that trial, evidence was introduced that demonstrated a relationship among CAIR, individual CAIR founders (including its current President Emeritus and its Executive Director) and the Palestine Committee. Evidence was also introduced that demonstrated a relationship between the Palestine Committee and HAMAS, which was designated as a terrorist organization in 1995. In light of that evidence, the FBI suspended all formal contacts between CAIR and the FBI.

The FBI's decision to suspend formal contacts was not intended to reflect a wholesale judgment of the organization and its entire membership. Nevertheless, until we can resolve whether there continues to be a connection between CAIR or its executives and HAMAS, the FBI does not view CAIR as an appropriate liaison partner. It is important to note, however, that although the FBI has suspended all formal outreach activities with CAIR at this time, CAIR, its officers, and members have been encouraged to report any hate crime, violation of federal civil rights or suspicious activity to the FBI.

The FBI made its own decision vis-a-vis outreach activities with this particular group. Any questions regarding broader executive branch outreach activities would be better answered by the Administration.

Please do not hesitate to contact my office if we may be of additional assistance.

Sincerely yours,

RICHARD C. POWERS,
Assistant Director, Office of Congressional Affairs.

R 221435Z MAY 06
FM AMEMBASSY ABU DHABI
TO SECSTATE WASHDC 5272
INFO AMCONSUL DUBAI

UNCLAS ABU DHABI 002127
SENSITIVE
FOR NEA/ARP, NEA/PPD; INFO NEA/FO, R

E.O. 12958: N/A
TAGS: KISL, SOCI, PHUM, PGOV, KDEM, AE
SUBJECT: VISIT BY COUNCIL ON AMERICAN ISLAMIC RELATIONS (CAIR) TO UAE

1.(U) On May 21, the Council on American Islamic Relations (CAIR) paid a courtesy call on the Ambassador to discuss the organization's issues, outreach strategies, and its visit to the CAE. The UAE press has reported that Sheikh Hamdan bin Rashid al-Maktoum, Deputy Ruler of Dubai and UAE Minister of Finance and Industry, ''has endorsed a proposal to build a property in the U.S. to serve as an endowment for CAIR.'' DCM, PAO and MEPI Regional Director also participated in the meeting.

2.(U) The group expressed ideas about countering negative stereotypes about Muslims in the U.S. (''Islamophobia'') and addressing anti-Americanism in the Middle East. They mentioned previous meetings with State Department officials, U/S Karen Hughes and A/S David Welch, their attendance at the Secretary's Iftar, and spoke of a possible meeting with President Bush in the future.

3.(U) Mr. Don Myers, representing Washington, D.C. public relations firm Hill & Knowlton, provided a short demonstration of a PR campaign designed to support CAIR's overall organizational objectives defined as: 1) political empowerment of Muslims, 2) grassroots effort by CAIR to improve community relations with non-Muslims, 3) launching of an effective, long-term (5 year) advertising/outreach campaign to counter negative stereotypes about Muslims.

4.(U) Members of the CAIR delegation included: Hon. Larry Shaw, Senator (North Carolina General Assembly); Hon. Paul Findley, Former U.S. Representative; Don Myers, Washington, D.C. public relations firm Hill & Knowlton; Nihad Awad, CAIR Executive Director and Co-Founder; Cary (Ibrahim) Hooper, CAIR Communication Director and Co-Founder; Dr. Parvez Ahmed, CAIR Board Chairman; and Dr. Nabil Sadoun, CAIR Board Member.

5.(U) CAIR delegation also paid a call earlier in the day on Sheikh Sultan bin Muhammad al-Qassimi, Ruler of Sharjah, which was covered in the press.

6.(U) Sheikh Ali al-Hashemi, UAE Presidential Adviser on Islamic affairs, is hosting a reception at his house this evening, May 22, in honor of the CAIR group; Ambassador and PolOff to attend. Al-Hashemi also thanked the Ambassador for receiving the CAIR delegation.

7.(SBU) Comment: CAIR Executive Director Nihad Awad told us that while they were pleased with the results of the meeting with Sheikh Hamdan bin Rashid, they had no concrete information on the size of the endowment or when it might be forthcoming. Awad also mentioned that the Bin Hamoodah Group, a $500 million/year trading company, founded by three Emirati brothers and representing Halliburton, IBM, FMC Corporation and General Motors, is CAIR's main benefactor in the UAE. One newly-rich stock trader, Talal Khoori (UAE national of Iranian origin), is believed to have donated one million dollars to CAIR.

Sison.

P 281502Z JUN 06
FM AMEMBASSY RIYADH
TO SECSTATE WASHDC PRIORITY 9065
INFO GULF COOPERATION COUNCIL COLLECTIVE
AMCONSUL JEDDAH

UNCLAS RIYADH 005172
SENSITIVE

E.O. 12958: N/A
TAGS: SCUL, KDEM, KISL, PGOV, PHUM, SOCI, SA
SUBJECT: VISIT BY COUNCIL ON AMERICAN ISLAMIC RELATIONS
(CAIR) TO SAUDI ARABIA
REF: ABU DHABI 2127

1.(U) Following up on a similar visit to the UAE in May (reftel), a delegation from the U.S.-based Council on American Islamic Relations (CAIR) visited the Kingdom of Saudi Arabia (KSA) in June. On June 22 the group paid a courtesy call on the Embassy to discuss the organization's issues and outreach strategies. In the Ambassador's absence, DCM received the group, along with the PA Counselor and Poloff (notetaker).

2.(SBU) Prior to coming to Riyadh, the CAIR group visited Mecca and Jeddah. Although they apparently were not received at the highest levels of the SAG, the group assured the Embassy that ''King Abdullah knows CAIR very well'' and receives regular updates on the group's projects. After recalling the success of their visit to the UAE in May, the group predicted that they would be back in the region by fall to visit Kuwait and Qatar. The group also mentioned that they had been well-received in Washington by senior State Department officials, including Secretary Rice and Undersecretary Hughes.

3.(U) The core delegation consisted of CAIR Board Chairman Dr. Parvez Ahmed, Executive Director Nihad Awad, and Communications Director Cary (Ibrahim) Hooper. Accompanying them were former U.S. Representative Paul Findley and Don Myers, a former DoD official now with Hill and Knowlton public relations.

4.(U) During their hour-long meeting in the Embassy, the group presented various projects that CAIR is working on to counter negative stereotypes about Muslims in the U.S. (''Islamophobia''), linking their work to concern over growing anti-Americanism in the Middle East. One of the current CAIR projects they discussed was the presentation of ''accurate books about Islam'' to schools and libraries in the U.S.

5.(SBU) Mr. Don Myers, representing Hill and Knowlton, gave a short demonstration of a CAIR-funded media campaign to support CAIR's overall information outreach effort. According to Myers, this private campaign will emphasize both grassroots outreach to improve American non-Muslim understanding of Muslims and the encouragement of political engagement by American Muslims. The multi-year broadcast and print campaign is to be entitled ''Let the Conversation Begin'' and is aimed at countering negative stereotypes about Muslims within the broad American public.

6.(SBU) One admitted reason for the group's current visit to the KSA was to solicit $50 million in governmental and non-governmental contributions. PA Counselor noted that private outreach activities can provide valuable support to USG efforts to build mutual understanding overseas but cautioned that USG Public Diplomacy (PD) funds cannot be used or associated with efforts to target American audiences. The delegation was interested to hear of the Embassy's PD exchange and activities within the KSA and offered to help support them in any appropriate way. The group did not share, however, any details of their success or lack thereof in fundraising within the KSA.

Oberwetter.

AMERICAN MUSLIMS COMMEND FBI FOR REJECTION OF CAIR

Thirty years have passed since the Iranian revolution and 29 years since the first Islamist murder in the U.S.—that of 'Ali Akbar Tabataba'i in a Washington, D.C., suburb. More than seven years ago, America received a wake-up call, on September 11, 2001, about radical Islam. However straightforwardly evil these events, they left U.S. authorities mostly baffled by extremism among American Muslims.

One disturbing example of this confusion has involved the Federal Bureau of Investigation and the Council on American-Islamic Relations (CAIR).

Almost from CAIR'S founding in 1994, the FBI has worked with the organization, which successfully presented itself as the ''Muslim NAACP,'' letting CAIR train bureau personnel and serve as a liaison to the American Muslim community. CAIR concentrated on terror-related law enforcement such as sensitivity in investigating extremist suspects and allegations of profiling.

Now, at last, the FBI–CAIR relationship has changed.

In a letter dated March 9, 2009, FBI Assistant Director John Miller wrote to U.S. Rep. Frank R. Wolf (R–Va) confirming that the bureau has ''suspended any formal engagement with Council on American-Islamic Relations (CAIR) field offices around the country.'' He explained that this adjustment ''comes in part as a result of evidence gathered through FBI investigation and presented in connection with the Holy Land Foundation trial. CAIR was listed as an unindicted co-conspirator in that case.''

Miller referred to the Holy Land Foundation, or HLF, having been convicted of terror financing in November 2008.

CAIR and its allies in the ''Wahhabi lobby'' reacted aggressively to the FBI's decision to distance itself from CAIR. Ten extremist Muslim groups announced on March 17, 2009, that they are ''considering suspending outreach relations with the FBI'' based on vague claims that ''American mosques and Muslim groups have been targeted.'' CAIR's supporters included American Muslims for Palestine, the Islamic Circle of North America, and the Muslim Students Association, as well as the leading pro-Iranian Muslim element in America, the Islamic Educational Center of Orange County, Ca.

We, the undersigned American Muslims, have long known the true character of CAIR and its allies. Therefore:

We observe that they denounce ''terrorism'' in general terms but not the specific actions of Islamist groups like Hamas or Hezbollah. They denounce violence but not the ideologies behind it.

We observe their commitment to radical aims, their attempts to chill free speech by calling critics of radical Islam ''Islamophobes,'' and their false, ugly accusations against moderate American Muslims who disagree with their agenda.

We reject any claim that CAIR and its supporters are legitimate civil liberties advocates or appropriate partners between the U.S. government and American Muslims.

We congratulate the FBI for adopting a firmer attitude toward CAIR, as a defense of Americans of all faiths from the menace of radical Islam, including Muslims of all backgrounds—Sunni, Shia, Sufi, secular, etc.

We call on the U.S. Department of Justice to affirm and continue this decision.

We call on the entire United States government to follow suit in rejecting relations with the Council on American-Islamic Relations.

Dr. Kemal Silay, President, Center for Islamic Pluralism, www.islamicpluralism.org;

Supna Zaidi, Assistant Director, Islamist Watch, www.islamist-watch.org;

M. Zuhdi Jasser, American Islamic Forum for Democracy, www.aifdemocracy.org;

Imaad Malik, Fellow, Center for Islamic Pluralism;

Dr. Ahmed Subhy Mansour, International Quranic Center, www.ahl-alquran.com;

Khalim Massoud, reformislam@gmail.com;

Nawab Agha Mousvi, American Muslim Congress and Center for Islamic Pluralism;

Kiran Sayyed, Council for Democracy and Tolerance, http://cfdnt.com/;

Stephen Suleyman Schwartz, Executive Director, Center for Islamic Pluralism;

Shia.Protest@yahoo.com;

Dr. Jalal Zuberi, Southern U.S. Director, Center for Islamic Pluralism.

I plan to take the remainder of my time to explore many of these same concerns and talk about why everything I've read, studied and observed has led me to believe that the Bureau's decision is not only defensible but advisable and that it ought to, in fact, inform the actions of other public officials, policymakers and the press, many of whom consistently—and I would argue mistakenly—look to CAIR to speak for mainstream Muslim Americans.

Zhudi Jasser, himself a Muslim and president of the Islamic Forum for Democracy, makes a critical distinction between ''Islam'' and ''Islamism.'' ''Islam'' is, of course, a faith which has an estimated worldwide following of over 1 billion people. ''Islamism,'' however, according to Mr. Jasser, is ''a coercive governmental and political construct that seeks to impose shar'ia—Islam jurisprudence—upon society.''

In 2007, in the publication Family Security Matters, Jasser wrote that CAIR uses ''the protection of religion when the facts are not on their side. They use the discourse of politics when they want to push forth their Islamist agenda with the presumption of speaking for all Muslims. They will delve into the political only on their own terms in both foreign and domestic policy, but when they are on the receiving end of political criticism, they run for cover under the guise of victimization.'' A dispassionate look at CAIR's public posture shows that Mr. Jasser's observations ring true.

In 1998, I authored the legislation that created the National Commission on Terrorism. That same year, in CAIR's own words from a press release, it ''asked Muslims to contact leaders of a House-Senate conference committee and urge them to amend or eliminate new legislation that would create a National Commission on Terrorism.'' This was a misguided lobbying effort at best. Fortunately, it was unsuccessful, and the bipartisan commission was authorized to conduct its work.

A Congressional Research Service report described the main finding of the commission this way: ''It calls on the U.S. Government to prepare more actively to prevent and deal with a future mass casualty, catastrophic terrorist attack.'' Regrettably, the commission's recommendations, sent to Congress in June 2000, were generally ignored until after the attacks of September 11, 2001, when 3,000 people were killed, including 30 from my congressional district.

Following the commission's public report, CAIR's executive director, Nihad Awad, said in a June 4 press release, ''The fight against terrorism is one that should be undertaken, but that struggle should not be based on stereotypes, false assumptions or the political agendas of foreign governments. If the past is any indication, all or most of these new provisions will be used to target Muslims in this country and worldwide. It is American Muslim groups whose fund-raising will be restricted. It is Muslim students who will be monitored.''

Indeed, the FBI has restricted the fund-raising of some Muslim groups, but only when those organizations have been found to be a cover for terrorist financing, as was true most notably with the Holy Land Foundation.

When the Holy Land Foundation was shuttered 3 months after 9/11, CAIR warned in a December 4, 2001, press release that this was an ''unjust and counterproductive move that can only damage America's credibility with Muslims in this country and around the world and could create the impression that there has been a shift from a war on terrorism to an attack on Islam.'' This purported ''attack on Islam'' proved to be baseless in the face of the Holy Land Foundation verdicts.

A November 25, 2008, Department of Justice press release following the initial verdicts in the foundation case quotes Patrick Rowan, Assistant Attorney General for National Security. He says, ''For many years, the Holy Land Foundation used the guise of charity to raise and funnel millions of dollars to the infrastructure of the Hamas terrorist organization. This prosecution demonstrates our resolve to ensure that humanitarian relief efforts are not used as a mechanism to disguise and enable support for terrorist groups.''

As I noted earlier, CAIR was named as an unindicted coconspirator in the Holy Land Foundation case, which makes its cautionary word about the ''injustice'' of closing the ''charity'' suspect.

In a Federal court filing from December 2007, Federal prosecutors described CAIR as ''having conspired with other affiliates of the Muslim Brotherhood to support terrorists.'' The government also stated ''proof that the conspirators used deception to conceal from the American public their connections to terrorists was introduced'' in the Holy Land Foundation trial.

□ 1330

In a footnote, government prosecutors pointed out: ''From its founding by Muslim Brotherhood leaders, CAIR conspired with other affiliates of the Muslim Brotherhood to support terrorists.''

Further, according to Senate testimony, CAIR received a $5,000 donation for the Holy Land Foundation. Initially, in written testimony submitted September 10, 2003, to the Senate Subcommittee on Terrorism, Technology and Homeland Security, CAIR denied that this was the case. Specifically, Mr. Awad said claims to the contrary were ''an outright lie. Our organization did not receive any seed money from the'' Holy Land Foundation. But when confronted with the IRS form on which the Holy Land Foundation disclosed the contribution, Mr. Awad changed his position in supplemental testimony submitted to the subcommittee saying that the amount in question was a donation like any other.

CAIR ultimately filed an amicus brief seeking removal from the list of unindicted coconspirators in the Holy Land Foundation case. In September of 2007, prosecutors made several arguments in favor of maintaining CAIR

status, saying: ''CAIR has been identified by the government at trial as a participant in an ongoing and ultimately unlawful conspiracy to support a designated terrorist organization, a conspiracy from which CAIR never withdrew.''

The Holy Land Foundation trial revealed more about CAIR than simply its ties to that particular entity. Rather, the trial brought to light, in the public square, the genesis of the organization. According to an October 14, 2008, Dallas Morning News story: ''Testimony has suggested that CAIR's founder Omar Ahmad and it's current executive director, Nihad Awad, participated in a 1993 meeting of purported Hamas sympathizers. Some Holy Land defendants attended the Philadelphia meeting, bugged by the FBI.''

A day later, the Dallas Morning News reported that FBI special agent Lara Burns testified during the Holy Land Foundation case that CAIR ''was formed in the aftermath of a 1993 meeting by Palestinian activists in America who brainstormed ways to spread pro-Hamas messages here without attracting too much attention.''

A Department of Justice press release issued on November 24, 2008, when the Holy Land Foundation verdicts came down: ''The government case included testimony that in the early 1990s, Hamas' parent organization, the Muslim Brotherhood, planned to establish a network of organizations in the U.S. to spread a militant Islamist message and to raise money for Hamas. . . . HLF became the chief fundraising arm for the Palestine Committee in the U.S. created by the Muslim Brotherhood to support Hamas. According to a wiretap of a 1993 Palestine Committee meeting in Philadelphia, former Holy Land Foundation President and CEO Shukri Abu Baker spoke about playing down Hamas' ties in order to keep raising money in the U.S. Another wiretapped phone call included Abdulrahman Odeh, Holy Land Foundation's New Jersey representative, referring to a suicide bombing as 'a beautiful operation.' ''

According to a National Review article in the pre-CAIR days, both Nihad Awad and Omar Ahmad were top officers in the Islamic Association for Palestine. Former FBI counterterrorism chief Oliver ''Buck'' Revell called Awad's former employer, the Islamic Association for Palestine, ''a front organization for Hamas that engages in propaganda for Islamic militants.''

A September 24, 2001, L.A. Times story described the connection between the Islamic Association of Palestine and the Holy Land Foundation this way: ''The IAP and the Holy Land were founded and funded by Mousa abu Marzook. . . . He's also the political leader of the terrorist group Hamas.''

Andrew McCarthy, a formal Federal prosecutor who led the 1995 prosecution against Sheik Omar Abdel Rahman, the ''blind sheik'' who was found guilty of planning the 1993 World Trade Center bombing, in a National Review article notes that there are ''several persons connected to CAIR who have been convicted of Federal felonies including terrorism.''

McCarthy includes in the group Ghassan Elashi, one of the founding members of CAIR's Dallas-area chapter, and also co-founder and former chairman of the Holy Land Foundation. According to July 9, 2007, Dallas Morning News report, Elashi was sentenced to ''nearly 7 years in prison for doing business with a terrorist and violating export laws.'' In a 1994 forum discussion videotaped at Barry University, CAIR's Mr. Awad said, ''I'm in support of the Hamas movement.'' CAIR has subsequently sought to discredit his video on his Web site by saying this quote was in response to a specific question and that Hamas was only designated a ''foreign terrorist organization,'' in January 1995 and did not commit its first wave of suicide bombings until late 1994 after Mr. Awad made the comment. It is noteworthy that Hamas' 1988 covenant describes itself as ''one of the wings in the Muslim Brotherhood in Palestine'' and says that ''the day of judgment will not come about until Muslims fight Jews and kill them.''

CAIR's defense and Mr. Awad's quote based simply on chronology is wanting in light of Hamas' founding principles which clearly embrace violence. As the Washington Post's Richard Cohen wrote in April of 2009: ''Read the Hamas charter. It is not some uplifting cry of a downtrodden people seeking its freedom but a repellant anti-Semitic screed.''

CAIR's mission statement focuses on protecting the civil rights of Muslims in America and on improving Islam's image. But CAIR's action under the umbrella of civil rights raises troubling questions.

In November 2006, US Airways removed six imams from a flight following passenger reports of unusual behavior. An Investor's Business Daily piece described the imams' action this way: ''At the gate before boarding, they angrily cursed the U.S. Then they bowed to Mecca and prayed 'very loud' shouting 'Allah Allah, Allah' according to the gate agent and another witness. On the plane, they didn't take their assigned seats and instead fanned out to the front, the middle, and the rear of the plane. . . . Some ran back and forth speaking to each other in Arabic. Adding to suspicions, most of them asked for seatbelt extensions even though they didn't need them—or even use them.

''Following the incident, the imams and CAIR filed a lawsuit against US Airways, the Minneapolis-St. Paul Metropolitan Airports Commission and 'John Doe' passengers,'' meaning the passengers on the plane.

Omar Mohammedi, the New York attorney who represented the imams, was a former president for the board of directors for CAIR, New York. The suit charged that the John Doe passengers ''may have made false reports against plaintiffs solely with the intent to discriminate against them on the basis of their race, religion, ethnicity and national origin.''

CAIR subsequently called on the Department of Justice to investigate violations of civil liberties for the six religious leaders taken off the plane.

The then-president of the Becket Fund for Religious Liberty, a Washington, DC public interest-based law firm protecting the free expression of all religious traditions, wrote the following letter to CAIR regarding suit against the John Doe passengers:

''This is a first for us. We have never opposed someone else's claim for religious discrimination but this tactic of threatening suit against ordinary citizens is so far beyond the traditions of civil rights litigation in the United States that we must oppose it to defend the good name of religious liberty itself.''

It is noteworthy that the Becket Fund has successfully argued cases for Muslims including securing a place for Muslim public school students in Texas to pray. In March of 2007, the Arizona Republic called the suit against ordinary citizens ''intimidation by lawsuit.'' On April 9, 2007, the San Francisco Chronicle reported that CAIR's Ibrahim Hooper had a notably different take: ''It is wrongheaded for observers to be suspicious of innocent behavior. Praying or asking for a seatbelt extension—simply because a Muslim 'That Muslim is wearing a tie,' Hooper scoffed. 'He can take it off and strangle someone.' ''

The U.S. Department of Transportation conducted an investigation following the passenger complaints and found that US Airways did not discriminate against the six imams when it removed them. In a letter to CAIR's acting legal director, the assistant general counsel for Aviation Enforcement and Proceedings wrote the following: ''We find the decision to remove the imams from the aircraft was based on information available to the captain at the time and was reasonable . . . it appears that the captain decided to remove the imams because of security concerns as a result of the sum of the imams' actual and perceived behavior, not their race or ethnicity. The fact that the captain's concerns were not borne out in hindsight does not make the action that he took discriminatory.''

CAIR's approach in this case was not simply an inconvenience. Rather, it had potential security implications as well. Airports nationwide implore travelers to report suspicious activities. Signs on major highways, bridges and tunnels throughout America do the same. New York Metropolitan Transit Authority introduced an ad campaign which has been adopted by municipalities around the country as part of their own anti-terrorism campaign. The ad features the following admonition: if you see something, say something.

But CAIR would have had Americans thinking, If you see something, think twice before you say something, lest you get mired in a lawsuit. USA Today editorialized in the days following the imams' suit and said: ''This legal tactic seems designed to intimidate passengers willing to do exactly what authorities have requested—say something about suspicious activity.'' The paper went on to report that ''the imams want to know the names of an elderly couple who turned around to watch and then made cell phone calls presumably to authorities.''

In a response to the incident at the Minneapolis Airport, Congressman PETER KING, the ranking member on the House Homeland Security Committee, and Congressman Steve Pearce first moved to provide immunity to those on public transportation who report suspicious activity through a recommittal motion to the Rail and Public Transportation Security Act of 2007, which the House overwhelmingly passed in March 2007 by a vote of 304–121.

Later in the 110th Congress, despite CAIR's public lobbying effort, Mr. KING and Senator JOE LIEBERMAN were successful in adding a section to the 9/11 Commission Implementation Act, Public Law 11053, which provides legal immunity to individuals who report terrorists or suspicious activity which they see on trains or planes to law enforcement.

In what has become a familiar refrain, Nihad Awad, on FOX News, March 31, 2007, said that PETER KING's legislative efforts were encouraging Islamophobia. In fact, the bill language had the potential to encourage other John Does who encounter suspicious activity to report it to authorities.

CAIR's funding is also a source of interest. Apart from the financial link with Holy Land Foundation, there is much that is unclear as to whether and to what degree CAIR is receiving contributions from foreign governments. In a March 2007 interview with the Chicago Tribune, Ahmed Rehab, CAIR-Chicago's executive director, said, ''Neither CAIR chapters nor the national office solicits or accepts money from any foreign government.''

A January 2007 open letter on CAIR's Web site says they are ''proud to receive support of every individual, whether Muslim, Christian, Jewish, or of another faith background, who supports the mission of promoting justice and mutual understanding as long as they are not an official of any foreign government and there are no strings attached to the request.''

Yet in a sensitive, but unclassified, May 2006 State Department cable which was brought to my attention, U.S. embassy staff in Abu Dhabi cabled that the UAE press was reporting that ''Sheikh Hamdan bin Rashid al-Maktoum, deputy ruler of Dubai and UAE Minister of Finance and Industry has 'endorsed a proposal to build a property in the U.S. to serve as an endowment for CAIR.'''

□ 1345

In another sensitive, but unclassified, June 2006 State Department cable, U.S. Embassy staff in Saudi Arabia reported the following after meeting with a CAIR delegation. The cable said, ''One admitted reason for the group's current visit to the KSA (Kingdom of Saudi Arabia) was to solicit $50 million in governmental and nongovernmental contributions.'' I submit both cables for the RECORD.

According to the June 2006 cable, ''The core delegation consisted of CAIR Board Chairman Dr. Parez Ahmed, Executive Director Nihad Awad, and Communications Director Cary (Ibrahim) Hooper.'' On an MSNBC talk show with Tucker Carlson in September 2006, just 3 months after the trip, Ibrahim Hooper claimed, ''To my knowledge, we don't take money from the Government of Saudi Arabia.''

I want to make it clear that it is important to understand that American Muslims, like all Americans, are entitled to organize, advocate, and engage in the political process; such are the makings of a vibrant democracy. They have taken advantage of the opportunity America provides for every background. They are teachers, doctors, policemen, they are mothers and fathers and neighbors.

I am reminded of a young Pakistani American who is Muslim that I had the privilege of meeting during one of my visits to Walter Reed Hospital. I met him when he was in the midst of his physical therapy, therapy that was necessary because he had lost both legs while in combat in Iraq. Despite his tremendous sacrifice, he was committed to the hard work of rehabilitation, in part because he hoped to go back to Iraq. He was a patriot of the sort that ought to give us pause and ought to make us proud.

I want to be absolutely clear that concerns I have with CAIR are specific to the organization and not to the Muslim faith. Even a passing glance at my record in Congress should put any thought to the contrary to rest.

In Sudan, Chechnya, China, Bosnia, and Kosovo, I have spoken out in defense of people of the Muslim faith. I have been to Sudan five times, including leading the first congressional delegation to Darfur, where nearly all the victims of the genocide are Muslim.

I was the only Member of Congress to visit Chechnya during the fighting in 1995. When I returned, I condemned the violence against the Chechen people, most of whom were Muslim, and called for a cease-fire.

I was one of the only Members to visit Muslim men in a Serb-run prisoner of war camp in Bosnia, where I saw evidence of a modern-day Holocaust taking place. And very early on, I began speaking out against the ethnic cleansing and the culture of genocide against the Bosnian people. I spoke out in favor of lifting the arms embargo against Bosnia so that the Muslim Bosnian Government could defend itself. I have visited Kosovo five times, and I voted and spoke out on the floor to approve the bombing campaign to stop the Serbian atrocities against Muslims in Kosovo.

I was one of the first Members to raise concerns about the persecution of Muslims in China, and continue to speak out when few others do.

Further, I was the author of the International Religious Freedom Act which created the U.S. Commission on International Religious Freedom as well as the International Religious Freedom Office at the State Department. Central to the act was the assertion that ''freedom of religious beliefs and practices is a universal human right and fundamental freedom.'' The legislation, and ultimately the offices it created, strengthens the United States' advocacy on behalf of individuals persecuted in foreign countries on account of religion, which, of course, includes persecuted Muslims.

America is an imperfect Nation, but a great Nation, a ''shining city on a hill'' as described by our Founders, a beacon of hope for persecuted and oppressed people. For centuries, the ''huddled masses'' depicted in the iconic poem at the base of the Statue of Liberty have arrived on these shores seeking a better life for themselves and their families.

My grandparents immigrated to America from Germany. My father served in World War II. Part of the reason he did so was that he felt a need to show that his loyalty was to America. Even though my grandparents were both native German speakers, when World War I broke out, my grandmother decided from that day forward only English would be spoken in their home.

I share this bit of personal history to illustrate that I am sensitive to the challenges facing new immigrants, especially during times of war. There have been instances in our Nation's history, especially when our country has been under attack, where the civil liberties of certain groups of people have been violated because other people were afraid. This is inexcusable. But this is the exception, not the rule.

Our experiment in self-governance has been marked by an unwavering commitment to basic freedoms for all people, among them the right to worship according to the dictates of your conscience. Many American Muslims left countries where such freedom is unimaginable; however, in a pluralistic society like ours, these principles are paramount. To silence or otherwise repress people of faith is inimical to the American way. In a public discourse, to accuse someone of religious bigotry or intolerance is a sure way to stifle debate.

On October 4, 2008, the editorial page editor of The Columbus Dispatch spoke to CAIR's bent toward accusation as a means of muzzling debate. They said, ''For many years, CAIR has waged a campaign to intimidate and silence

anyone who raises alarms about the dangers of Islamic extremism. CAIR's rationale is that discussions of Islamic extremism lead to animosity not just toward those who twist Islam into a justification for terrorism, but toward all who practice Islam.

''CAIR's concern is understandable, but its response is unreasonable.'' They went on to say, ''The group acts properly when it hammers home the point that only a small number of Muslims support religiously motivated violence, and that targeting law-abiding Muslims is wrong. Where CAIR errs is in labeling anyone who discusses Islamic terrorism a bigot and hatemonger, an Islamophobe, to use CAIR's favorite slur.'' Ironically, some of CAIR's most pointed attacks have in fact been aimed at other Muslims who dare to have differing views.

In a 2006 Philadelphia Inquirer piece, CAIR's Hooper is quoted as saying Zuhdi Jasser, President of the American Islamic Forum for Democracy, who has been critical of CAIR, was ''providing others with an opportunity to advance an agenda that is hostile to the American Muslim community.''

Given CAIR's genesis, its associations with known terrorist entities and individuals, and its tactics—namely, attempting to discredit anyone who dares to speak out against its organization—their cries of victimization and accusations of religious bigotry appear disingenuous.

And given the dangerous world in which we live today, any attempt to literally silence honest discourse about the nature of the threats facing our country is intolerable and must be addressed.

I stand today with other elected officials who have raised questions about CAIR. Senator SCHUMER describes CAIR as an organization ''which we know has ties to terrorism.'' Democratic Senator DICK DURBIN has said that CAIR is ''unusual in its extreme rhetoric and its association with groups that are suspect.''

Democratic Senator BARBARA BOXER withdrew an award she gave to an official at a local CAIR chapter because she ''had concerns about statements by some CAIR officials and about claims of financial links to terrorism.'' And other Senators, including Republicans JON KYL and TOM COBURN, have voiced support for the FBI's actions in severing ties with CAIR.

I stand today with counterterrorism experts, including Steven Pomerantz, the FBI's former chief of counterterrorism, who has stated, ''CAIR, its leaders, and its activities effectively give aid to international terrorist groups.''

And perhaps most importantly, I stand with thousands of American Muslims for whom CAIR does not speak. In June, 2007, the Washington Times published a report which analyzed CAIR's tax documents and found that CAIR's membership has declined by 90 percent since 9/11. Zuhdi Jasser of the American Islamic Forum for Democracy was quoted in the article as saying, ''This is the untold story in the myth that CAIR represents the American Muslim population. They only represent their membership and donors.''

In 1999, the Islamic Supreme Council of America, ISCA, issued an open letter to all Muslims after Shaykh Kabbani, Chairman of the ISCA, spoke at a State Department open forum on Islamic extremism and subsequently came under public attack by several organizations, including CAIR. In the open letter, ISCA says the organizations attacking Kabbani, among them CAIR, ''have not quoted a single statement of Shaykh Kabbani in full or in context. Moreover, the statements were augmented with emotionally charged words like 'promoted and generalized an allegation,' 'outrageous statements,' and 'Islamophobic,' thereby thwarting his original intention and message.'' The letter goes on to say, ''In their action alerts, CAIR has a chronic tendency to negatively juxtapose Islam and Americans.''

Consider, too, the words of Dr. Hedieh Mirahmadi, then general secretary of the Islamic Supreme Council of America, quoted in a 1999 ISCA press release following this same incident. She remarked, ''The carefully orchestrated and calculated plot to intimidate Shaykh Kabbani into retracting his statements only goes to prove the unwillingness to tolerate differences of opinion and belief, as well as the extent to which they would go to silence the voice of opposition.''

Or consider the testimony of Zeyno Baran, a prominent Turkish American scholar who is presently a senior fellow at the Hudson Institute. In July of 2008, speaking before the Senate Committee on Homeland Security and Governmental Affairs, she stated that she believed CAIR ''was created by the Muslim Brotherhood to influence the U.S. Government, Congress, and NGOs, along with academic and media groups'' and lamented that, ''despite being founded by leading Islamists, CAIR has successfully portrayed itself as a mainstream Muslim organization over the past 15 years and has been treated as such by many U.S. Government officials.''

Or most recently, an April 2009 advertisement in Weekly Standard authored by ''American Muslims,'' applauded the FBI for rejecting CAIR. The signatories included representatives of six different organizations, and I submit a copy of the ad for the RECORD. The signatories wrote, ''We observe that they (CAIR) denounce 'terrorism' in general terms, but not the specific actions of Islamic groups like Hamas or Hezbollah. They denounce violence, but not the ideologies behind it.'' Further, the group acknowledged CAIR's ''attempts to chill free speech by calling critics of radical Islam 'Islamophobes.' ''

Finally, I would like to close my speech by recognizing the men and women of the FBI and the hard work they do every day to keep this country safe, and to restate the FBI's own words, ''Until we can resolve whether there continues to be a connection between CAIR or its executives and Hamas, the FBI does not view CAIR as an appropriate liaison partner.''

I completely agree.

R 221435Z MAY 06
FM AMEMBASSY ABU DHABI
TO SECSTATE WASHDC 5272
INFO AMCONSUL DUBAI

UNCLAS ABU DHABI 002127
SENSITIVE
FOR NEA/ARP, NEA/PPD; INFO NEA/FO, R
E.O. 12958: N/A
TAGS: KISL, SOCI, PHUM, PGOV, KDEM, AE
SUBJECT: VISIT BY COUNCIL ON AMERICAN ISLAMIC RELATIONS
(CAIR) TO UAE

1.(U) On May 21, the Council on American Islamic Relations (CAIR) paid a courtesy call on the Ambassador to discuss the organization's issues, outreach strategies, and its visit to the UAE. The UAE press has reported that Sheikh Hamdan bin Rashid al-Maktoum, Deputy Ruler of Dubai and UAE Minister of Finance and Industry, ''has endorsed a proposal to build a property in the U.S. to serve as an endowment for CAIR.'' DCM, PAO and MEPI Regional Director also participated in the meeting.

2.(U) The group expressed ideas about countering negative stereotypes about Muslims in the U.S. (''Islamophobia'') and addressing anti-Americanism in the Middle East. They mentioned previous meetings with State Department officials, U/S Karen Hughes and A/S David Welch, their attendance at the Secretary's Iftar, and spoke of a possible meeting with President Bush in the future.

3.(U) Mr. Don Myers, representing Washington, D.C. public relations firm Hill & Knowlton, provided a short demonstration of a PR campaign designed to support CAIR's overall organizational objectives defined as: 1) political empowerment of Muslims, 2) grassroots effort by CAIR to improve community relations with non-Muslims, 3) launching of an effective, long-term (5 year) advertising/outreach campaign to counter negative stereotypes about Muslims.

4.(U) Members of the CAIR delegation included: Hon. Larry Shaw, Senator (North Carolina General Assembly); Hon. Paul Findley, Former U.S. Representative; Don Myers, Washington, D.C. public relations firm Hill & Knowlton; Nihad Awad, CAIR Executive Director and Co-Founder; Cary (Ibrahim) Hooper, CAIR Communication Director and Co-Founder; Dr. Parvez Ahmed, CAIR Board Chairman; and Dr. Nabil Sadoun, CAIR Board Member.

5.(U) CAIR delegation also paid a call earlier in the day on Sheikh Sultan bin Muhammad al-Qassimi, Ruler of Sharjah, which was covered in the press.

6.(U) Sheikh Ali al-Hashemi, UAE Presidential Adviser on Islamic affairs, is hosting a reception at his house this evening, May 22, in honor of the CAIR group; Ambassador and PolOff to attend. Al-Hashemi also thanked the Ambassador for receiving the CAIR delegation.

7.(SBU) Comment: CAIR Executive Director Nihad Awad told us that while they were pleased with the results of the meeting with Sheikh Hamdan bin Rashid, they had no concrete information on the size of the endowment or when it might be forthcoming. Awad also mentioned that the Bin Hamoodah Group, a $500 million/year trading company, founded by three Emirati brothers and representing Haliburton, IBM, FMC Corporation

and General Motors, is CAIR's main benefactor in the UAE. One newly-rich stock trader, Talal Khoori (UAE national of Iranian origin), is believed to have donated one million dollars to CAIR.

Sison.

P 281502Z JUN 06
FM AMEMBASSY RIYADH
TO SECSTATE WASHDC PRIORITY 9065
INFO GULF COOPERATION COUNCIL COLLECTIVE
AMCONSUL JEDDAH
UNCLAS RIYADH 005172
SENSITIVE
E.O. 12958: N/A
TAGS: SCUL, KDEM, KISL, PGOV, PHUM, SOCI, SA
SUBJECT: VISIT BY COUNCIL ON AMERICAN ISLAMIC RELATIONS
(CAIR) TO SAUDI ARABIA
REF: ABU DHABI 2127

1.(U) Following up on a similar visit to the UAE in May (reftel), a delegation from the U.S.-based Council on American Islamic Relations (CAIR) visited the Kingdom of Saudi Arabia (KSA) in June. On June 22 the group paid a courtesy call on the Embassy to discuss the organization's issues and outreach strategies. In the Ambassador's absence, DCM received the group, along with the PA Counselor and Poloff (notetaker).

2.(SBU) Prior to coming to Riyadh, the CAIR group visited Mecca and Jeddah. Although they apparently were not received at the highest levels of the SAG, the group assured the Embassy that ''King Abdullah knows CAIR very well'' and receives regular updates on the group's projects. After recalling the success of their visit to the UAE in May, the group predicted that they would be back in the region by fall to visit Kuwait and Qatar. The group also mentioned that they had been well-received in Washington by senior State Department officials, including Secretary Rice and Undersecretary Hughes.

3.(U) The core delegation consisted of CAIR Board Chairman Dr. Parvez Ahmed, Executive Director Nihad Awad, and Communications Director Cary (Ibrahim) Hooper. Accompanying them were former U.S. Representative Paul Findley and Don Myers, a former DoD official now with Hill and Knowlton public relations.

4.(U) During their hour-long meeting in the Embassy, the group presented various projects that CAIR is working on to counter negative stereotypes about Muslims in the U.S. (''Islamophobia''), linking their work to concern over growing anti-Americanism in the Middle East. One of the current CAIR projects they discussed was the presentation of ''accurate books about Islam'' to schools and libraries in the U.S.

5.(SBU) Mr. Don Myers, representing Hill and Knowlton, gave a short demonstration of a CAIR-funded media campaign to support CAIR's overall information outreach effort. According to Myers, this private campaign will emphasize both grassroots outreach to improve American non-Muslim understanding of Muslims and the encouragement of political engagement by American Muslims. The multi-year broadcast and print campaign is to be entitled ''Let the Conversation Begin'' and is aimed at countering negative stereotypes about Muslims within the broad American public.

6.(SBU) One admitted reason for the group's current visit to the KSA was to solicit $50 million in governmental and non-governmental contributions. PA Counselor noted that private outreach activities can provide valuable support to USG efforts to build mutual understanding overseas but cautioned that USG Public Diplomacy (PD) funds cannot be used or associated with efforts to target American audiences. The delegation was interested to hear of the Embassy's PD exchange and activities within the KSA and offered to help support them in any appropriate way. The group did not share, however, any details of their success or lack thereof in fundraising within the KSA.

Oberwetter.

AIG BONUSES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Ohio (Mr. LATOURETTE) is recognized for 60 minutes.

Mr. LATOURETTE. Madam Speaker, we have been coming to the floor for about 4 months now in an attempt to get to the bottom of one or two mysteries. I had hoped to be able to come to the floor today to indicate that one of those mysteries had been solved or that we were closer to its resolution.

The Speaker will recall that earlier this year the United States Congress passed a stimulus bill that was requested by the new President of the United States, about $789 billion. And whether you agreed with that legislation or not, during its path through the legislative process there was great concern—and continues to be great concern; I heard one of my colleagues give a Special Order this afternoon about the bonuses, the millions of dollars of bonuses that are being paid to executives on Wall Street, executives who work for companies who, in some instances, have led to the mess we find ourselves in financially.

When the stimulus bill was being crafted over in the other body, the United States Senate, two Senators—one Republican and one Democrat, the Republican is OLYMPIA SNOWE of Maine, the Democrat is RON WYDEN of Oregon—they crafted language that would have put strings on, would have said maybe when things aren't going so good and we're giving billions of dollars of taxpayer money to these Wall Street firms, maybe we should have some conditions under which the bonuses are paid and how they're paid and how much they can get. But then a funny thing happened. The House passed its version, the Senate passed its version. Madam Speaker, you know that when we have bills that pass each Chamber and there are some differences in them, we have to appoint a conference committee, and they meet and work out the differences and then send back to us a conference report.

□ 1400

Somehow, somewhere in that conference committee, the language that was put in by Senator SNOWE and Senator WYDEN was taken out of the bill and about 40 words that are located on the easel to my left were inserted into the bill. And, Madam Speaker, as you read that language, not only were there no longer any strings on those bonuses, but this paragraph specifically protected any bonus that was given to any official, including the ones that became controversial a little later, AIG, and said any bonus that was agreed to before February 11, and February 11 was the day that the stimulus bill was passed, so anything agreed to before that day was protected. Then about a week later, the news came out that AIG, the insurance company that's received billions of dollars of taxpayers' money, was going to pay its executives $173 million in bonuses.

And you should have heard the hue and cry around this place, Madam Speaker. Everybody was shocked. The President of the United States was shocked. Members of Congress were shocked. Members of the United States Senate were shocked. People at the Department of Treasury were shocked.

Well, they shouldn't have been shocked because, after this language was inserted, the bill came back to both the House and the Senate. Every Republican voted against it; every Democrat, save 11, voted for the stimulus bill that included this paragraph that protected the $173 million in bonuses.

We have been coming to the floor for the last several months to try to find out, because nobody's fessing up. Nobody has said, Hey, you know what? I took out the first language and I put in this language, and maybe you could tell us why. But nobody will do that. Everybody wants this issue to go away. And as a matter of fact, people were so shocked that their reaction, the majority's reaction, was to come up with really a stupid bill, and that was to tax these bonuses, rather than going back and doing the right thing and taking out their mistake, to tax these bonuses at 90 percent.

And I will tell you why I call that a stupid bill, Madam Speaker. I call it a stupid bill because the person who got the biggest bonus at AIG got $6.4 million. I think it was a man. So if you're really mad at that guy, why just take away 90 percent of his bonus? Why don't you take away 100 percent of his bonus? So that stupid piece of legislation, and, thankfully, President Obama didn't think much of it and neither did the Senate, but the legislation over here still would have left that guy at AIG with $640,000. Well, Madam Speaker, in my district in northeastern Ohio, it would take 16 years for somebody making $40,000 a year to make $640,000. So again, rather than correcting the mistake, they came up with—it wasn't even a fig leaf, it was a fig tree to pretend that they were really mad about the bonuses that they authorized with their vote.

So we, myself and other Members, Mr. MCCOTTER from Michigan, have been coming to the floor. And I grew up playing a game called Clue, a very wonderful game to play around the kitchen table with your kids. Hasbro, I think, is the manufacturer of it. And so with apologies to Hasbro, we came up with ''Clue,'' because if you play Clue, and, Madam Speaker, I don't know if you're a Clue player or not, but the

way Clue works is you start with a murder has been committed. In this case, it wasn't a murder. It was pretty bad, but it wasn't a murder. You start with what happened, and what happened is that somebody put in a bill in the middle of the night language that protected these bonuses that everybody became shocked about. So that's the crime in this particular instance. So you have to find out who did it. You have to find out where it happened in Clue, and you have to find out where the weapon is.

Now, the great news is that we know what the weapon is. It wasn't a gun or the lead pipe or the rope or any of that stuff. It was a pen. Somebody took a pen, took out the language that would have prohibited the bonuses, and then took the pen and wrote this paragraph into the bill.

So we got a third of the way there and I was feeling pretty good about it. And in our subsequent discussions here on the floor, we've pretty much narrowed it down. Here you have the Banking Committee, the Speaker's office, the conference room. And pretty clearly, it either happened in the Speaker's office or in the conference room. We get that from published reports, the shuttle diplomacy. I wish I could tell you that there was a Republican suspect in this, but there weren't any Republicans permitted into the conference room. So we believe, and I think for the purpose of this exercise we're going to say, that it happened in the conference room.

The missing piece and where I really thought we were getting close was who did it. Let's finish Clue, that it was Colonel Mustard with a pen in the conference room. And around this board we have the people that we believe, we know, were in the room and were capable of making this insertion. Madam Speaker, I know you know who they are. But just sort of running around the board here, down here CHARLIE RANGEL, the distinguished chairman of the Ways and Means Committee. Here, a former colleague of ours, Rahm Emanuel, who is President Obama's Chief of Staff. Up here is Mr. Orszag, the OMB Director, the fellow that's the bean counter down at the White House. Over here is Senator DODD from Connecticut, who is the chairman of the Banking Committee over in the Senate. In the upper corner is Ms. PELOSI, the distinguished Speaker of the House of Representatives, and Mr. HARRY REID, the distinguished majority leader over in the United States Senate. So we have narrowed it down to one of these folks.

And the question mark down there, and this is really a disappointment to me, sadly, some are just saying that it was some staffer that put the thing in. So the question mark is this staffer who apparently has the power to change law and make law. And it may have been a staffer who was using the pen, but clearly a staffer had to be directed by somebody to do that.

We thought originally that Senator DODD, the chairman of the Banking Committee, might be the person we should focus in on. He's made some public statements, but the public statements now have gone back and forth. His office says that they put it into the bill at the request of the Treasury. The Treasury says that they put it in at the request of Senator DODD.

So here's what we did. Being the sleuths that we're attempting to be, we went out and filed a bill that basically would have required these folks to hand over some documents and fess up and tell us why they did it. It went to the Financial Services Committee here in the House. And to his credit, one of the heroes of this Clue game is Congressman BARNEY FRANK of Massachusetts, who chairs the Financial Services Committee. He called up the resolution, and that committee voted for it 64–0. So I'm feeling pretty good about it now. I think that we're actually going to get someplace. But, sadly, the way that this place works is that when legislation is reported out of the committee, it doesn't come here to the floor for discussion or debate unless it is scheduled by the distinguished majority leader of this body, Mr. HOYER of Maryland. And even though that event occurred a couple of months ago, Mr. HOYER has apparently determined that we are too busy here in the House of Representatives to deal with this issue. And we're going to talk a little bit about how busy we've been in a couple of minutes. But we've had a setback.

So Chairman FRANK, again, deserves credit because, even though the majority leader won't bring this bill to the floor so we can figure it out with documents, Chairman FRANK said to the Treasury, Look, just sit down with the people that are interested in finding out the truth here and hand things over.

So we had some conversations, and, sadly, I have to report to the House, Madam Speaker, that we've had a setback. And while I wanted very much to come and be able to solve this game so we could get on to something else, but there was a meeting, a conversation, on June 3 between representatives of the Financial Services Committee and a fellow by the name of Damon Munchus, M-u-n-c-h-u-s, who is the Deputy Assistant Secretary for Legislative Affairs. He indicated at this meeting where we were talking about it, and I was promised a letter talking about who did this, he indicated in that conversation that the Treasury thought that that meeting was to talk about policy options and had nothing to do with this particular issue. And he then stated that if the true goal of the meeting was to reconstruct conversations between Treasury and Senator DODD and his staff regarding this bonus provision and how they got into the stimulus bill—and I would say duh. I mean, what have we been trying to do here for the last 3 months?—that on the advice of counsel, the Treasury Department would be unable to provide any documents about those conversations.

So, again, it becomes kind of important that we have the majority leader schedule this resolution so we can get the documents so we can figure it out and we can move on to something else.

And I see my friend from Michigan is here, and I yield to Mr. MCCOTTER of Michigan.

Mr. MCCOTTER. I thank the gentleman for yielding through the Chair.

Just two quick inquiries of the distinguished gentleman from Ohio. First, I was wondering if you considered the response from Mr. Munchus to be indicative of the most transparent administration in history. And, secondly, I would like to commend you for putting the question mark signifying the poor staffer who will be blamed if we continue this, unless, of course, someone confesses or the media actually looks into the matter, because I remember growing up and I watched reruns of Star Trek. Whenever the captain and Bones or Spock would get on that transporter platform, there would always be somebody you didn't recognize, and you knew they weren't coming back. So when I see that question mark, I just think of the poor staffer that, at the direction of someone else, actually utilized the pen, because if this inquiry continues, as it will, you know that he may not be coming back.

Mr. LATOURETTE. I thank the gentleman. And the answer to the first part of your question is clearly this is not indicative of transparency.

Look, all we want to do is move on and find out why somebody felt it necessary in a dark room in the dark of night to put in language that protected these $173 million worth of bonuses and why they did it. They may have a great explanation. I doubt it, but they may have a great explanation. We just want them to come forward and tell us ''I did it'' and why they did it.

So I can't report, Madam Speaker, that we have solved this particular episode of Clue. And, sadly, we have another mystery that has sort of reared its ugly head here on Capitol Hill.

Mr. MCCOTTER. I thank the gentleman for yielding through the Chair.

Let's also put out that we have, in fact, understood from the White House, in fairness to them, that the President has taken responsibility for the AIG bonus. He said so, which I think is only appropriate since he signed the bill that executed it into law. But what we are really looking for is that shadowy figure between the President of the United States, who may or may not have known the bonus was in the bill, and the poor staffer that may have been directed to do this. So we want to point out that we are trying to be fair. We have not determined whether the President even knew the AIG bonus was in the stimulus bill, which was rushed in a crisis atmosphere upon a deadline that he set, and the staffer who may potentially receive all the culpability unfairly.

Mr. LATOURETTE. I thank the gentleman for that.

And I would go a step further. I am certain that President Obama did not know that this had been inserted into the stimulus bill because he appeared on television after the bonuses were given and said he was shocked that these bonuses have been given, and people in his administration said they were going to do everything within their power to get this money back. So I agree with you 100 percent. The President did not know, to the best of my knowledge, that this was occurring. And even our colleagues in the House, Mr. MCCOTTER, the Democrats who voted for the stimulus bill, except for 11 of them, I don't think they knew it either.

I'm not just trying to be a nitpicker. I will tell you that one of the problems is you may remember that stimulus bill that spent $789 billion of our constituents' money. It was about a thousand pages long. So it was like the phone book of New York City. And as that bill was coming to the floor that week, one of our colleagues on the Republican side made a motion and came up with this novel idea about how about if we have 48 hours, 2 days, to read the thousand pages, and here's another novel idea, what if we put it on the Internet so that our constituents, who are paying $789 billion, they have 2 days to sort of digest it and call their Representatives and express their views? That was Tuesday. The problem is the bill was taking a little longer than people anticipated. The President had promised that he was going to sign it by President's Day, so the bill was filed Thursday at midnight.

Now, I've apologized to my constituents for not being up Thursday at midnight to immediately begin reading the thousand pages. But when we arrived at work the next day, on Friday, we were told, You're not going to have 48 hours to read the bill; you're going to have 90 minutes to read the bill that spends $789 billion, and good luck to you. Now, I have been here 15 years, and I would suggest to you when you legislate that way, silly things happen. And I think a lot of our friends on the Democratic side of the aisle who voted for the stimulus bill that protected those bonuses didn't know it either, in fairness.

□ 1415

But that's why it's important, I think, to protect the integrity of the House and both Republicans, Democrats, the President of the United States—who did it and why did they do it. Just tell us and then we'll be done.

But we've come to, sadly, a second mystery and this one is more catastrophic when it comes to the lives of people in this country. As you know, Mr. Speaker, the auto industry is in big trouble, and we are now faced with the bankruptcies of Chrysler and General Motors, Chrysler going first.

In the days leading up to the filing of the bankruptcy for Chrysler, there were a number of events occurring that I want to describe. On April 30 at 11:30, the White House orchestrated a conference call with Members of Congress, Governors, Senators, anybody that was interested in what was going on with Chrysler, and in that conference call they indicated, This is a great day, we're saving 30,000 jobs and everything's going to be okay. I mean, there's going to be some pain but everything's going to be okay.

At noon that day, the President of the United States took to the airwaves and made the announcement that the bankruptcy was the way we were going to go. Over here on the far easel are President Obama's exact words: No one should be confused about what a bankruptcy process means. It will not disrupt the lives of the people who work at Chrysler or live in the communities that depend on it.

And then at 1 o'clock, after the President had his press event, there was a second conference call with Robert Nardelli, who was the chief executive officer at Chrysler, with again the same group of Governors, Members, that were interested in it, and the first question on that conference call came from Governor Granholm, the Democratic Governor of the State of Michigan where my friend Mr. MCCOTTER is from. She was concerned, because the President's announcement said 30,000 jobs had been saved. And while everybody was celebrating that fact, we all knew that there are more than 30,000 people that work for Chrysler in the United States of America.

Governor Granholm said, Well, listen, we congratulate you, we congratulate the President, I think this is really good news, but I hope that the President wasn't speaking in code. The President said that 30,000 jobs had been saved and we know that the number is about 39,000. So was he, you know, sort of just giving good news and we'll find out about the bad news later? Or have really all of the jobs been saved? And will there, in fact, be no plant closures?

Well, in response to that, Mr. Nardelli indicated that, Oh, no, no, no, no, the President was just using a round number. We don't expect plant closures and we don't expect any difficulties.

Now Governor Granholm did what I did. I don't know what my friend the gentleman from Michigan did but I issued a press release praising the administration, praising the auto task force and saying this is wonderful news, because I in fact had—I used to have—a Chrysler stamping plant in my district in a place called Twinsburg, Ohio. So I sent out a notice saying this is really good news. Well, sadly, that afternoon, and it's kind of a famous picture now, but this guy with a cart is taking all these banker boxes into the bankruptcy court up in New York. In that filing and clearly they weren't written between the President's announcement at noon and 3 o'clock when they were filed, located in there is an affidavit from a guy named Robert Manzo, who is one of Chrysler's consultants, and in there they identify eight plants that are going to be shuttered and 9,000 people, mostly United Auto Worker members, that are going to be out of jobs.

Now imagine, if you go with the scenario that I just indicated, that there were some people that were a little surprised. There are two more observations I want to make about that. We serve with a Member by the name of GWEN MOORE who is a Democrat from Wisconsin—Milwaukee. During the course of that phone call, she specifically said, Hey, you know what, I have this auto plant in Kenosha, Wisconsin, a Chrysler plant in Kenosha, Wisconsin. I just want to ask you, under this plan, are we going to be okay?

And Mr. Nardelli went on and waxed on about how important the Kenosha plant was and the 800 people that work there, and, yeah, you need to rest easy, it's going to be okay.

Well, sadly, after the bankruptcy documents were filed, Kenosha, Wisconsin's engine plant was on the list of closures. Again, I think Representative MOORE had some questions, as did the Governor of Wisconsin, saying, Well, what are you talking about? You told us you weren't going to close Kenosha.

Not to be outdone, Mr. Nardelli sent a letter of apology. He said, I want to begin by expressing my apologies. He goes on to say that in response to Congresswoman MOORE's question about Kenosha, I mistakenly conveyed the status of the Kenosha plant with Trenton, Michigan. Trenton, Michigan, doesn't sound like Kenosha, Wisconsin to me. It's not only not a sound-alike, they're in different States for crying out loud.

Mr. Speaker, I would like to put Mr. Nardelli's letter of May 7 into the RECORD.

CHRYSLER LLC,
Auburn Hills, MI, May 7, 2009.

Hon. Governor JIM DOYLE,
East State Capitol,
Madison, WI.

DEAR GOVERNOR DOYLE: I want to start by expressing my sincere apologies about the confusion surrounding comments I made on a conference call with you and other elected officials about the Kenosha Engine Plant on April 30, 2009.

In response to a question from Congresswoman Moore regarding the future of the Kenosha Plant, I mistakenly conveyed the status of the Phoenix investment in Trenton, MI. The facts I described were accurate for Trenton and not Kenosha, WI. I recognize this has added further confusion to an already difficult situation.

I would like to take this opportunity to clarify the Phoenix Engine Program production status.

In 2006, DaimlerChrysler started a program for a new V6 engine family. Based on industry volumes and forecasted demand, the initial planning volumes were 1.76 million units. In order to achieve this level of production, a site selection process was initiated that included four new locations in Michigan, Ohio, Wisconsin and Mexico.

Before site selection was finalized, the engine volume planned for the combined company was reduced when the common engine

program with Daimler was redefined as a Chrysler only engine. This reduced the number of production sites to three.

These three sites would have the capability of producing 1.3 million V6 engines. Early in 2007, for a variety of reasons, the Corporation was required to reduce its capital investments in all programs which required a new production strategy for the Phoenix engine. Therefore, Chrysler decided to reduce the number of greenfield plant locations to two. In May and June of 2007 the Company chose those two sites and announced the greenfield investments of $730 million in Trenton and $570 million in Saltillo and broke ground on the construction of the facilities. The greenfield decisions were based on the adjacency of the proposed plants to the point-of-use assembly locations.

In February of 2007, Chrysler notified the State of Wisconsin and Kenosha officials that a greenfield site was no longer viable, but rather that a retool of the existing Kenosha Engine Plant was under consideration. The Kenosha retooling plan resulted in necessary capital savings; however, it required the Kenosha site to continue to produce its current engines through 2013.

In late 2007 and 2008, deterioration in industry volume resulted in a drop of the 1.3 million unit demand to 880,000. This reduction in volume and the need for Kenosha to produce its current engines resulted in the company deciding to defer the retooling strategy.

Chrysler kept Kenosha Area Business Alliance updated on the status of the retool through 2008. As the market began to collapse through late 2008 and 2009, a decision was made to idle the Kenosha Engine Plant in December of 2010. This and other restructuring actions were included in the Chrysler LLC February 17, 2009 Viability Plan submission to the United States Treasury and the President's Auto Task Force. The specific plant actions, including Kenosha Engine Plant, were not made public because it would have been presumptuous to assume that the plan was going to be approved and inappropriate to communicate prior to thorough discussion with the United Auto Workers union.

On April 3, 2009, Chrysler officials met with the Kenosha Task Force and reiterated the need to defer the Phoenix Program. Upon emergence from Chapter 11, plans are to continue to produce the current engine families through December of 2010 at the Kenosha Engine Plant in order to support our current products. The Trenton Engine site has been completely facilitized and will launch when we exit from Chapter 11. The Saltillo Engine site has also been facilitized and is scheduled to launch mid-to-late 2010.

We would have hoped to have been able to convey this information to you and the community in a more timely fashion, but circumstances simply did not afford us an opportunity to do so. It is expected that virtually all employees associated with Kenosha and the other closures announced in our Chapter 11 filings will be offered employment with the new company.

While the company continues to address difficult market conditions, we expect that the Chrysler Fiat alliance will ultimately provide customers and dealers a broader competitive line of fuel-efficient vehicles and technology, and will result in the preservation of more than 30,000 jobs in the United States along with thousands of employees at dealers and suppliers.

Again, please accept my sincere apologies for the confusion. We will continue to work with the people of Kenosha to ensure an orderly transition.

Sincerely,

BOB NARDELL,
Chairman and CEO.

Then the other thing that occurred is, you may remember, Mr. Speaker, that the UAW, the United Auto Workers, were asked by Chrysler to enter into a new contract—a contract that gave up benefits, gave up wages, gave up off days. But they were told that if they supported this new contract, that was going to lead to a new, vibrant Chrysler where their jobs would be secure. And so they voted on April 28. All the Chrysler workers went to the polls on April 28 to say whether or not they approved or disapproved this new contract. I don't know all of the election results, but I do know in my little community of Twinsburg, Ohio that has 1,200, or did have 1,200 UAW members, 88 percent of their members voted for it, voted to give up benefits, give up wages, as long as it helped the company that they worked for survive.

So they voted for it, the thing passed, and then the next day they find out that they're out of a job. Mr. Doug Rice, who's the president of UAW Local 122 which covers Twinsburg, indicated that, his quote was, ''I don't know if I was told the whole truth on everything. I don't feel like I was. It would be a shame if this was something that was known for some time. If they kept this back from people, that's wrong. That's wrong.''

He was then asked, What do you think would have happened if you had known that you were going to be out of a job by approving this contract? He said, ''Needless to say, people ain't going to vote to eliminate their jobs.''

And I think that's right. I don't think any of these 9,000 people who worked at the eight plants would have said, hey, let's approve this new contract and vote ourselves out of a job.

I would like to put Mr. Rice's quotes from the Cleveland Plain Dealer on May 1 into the RECORD, Mr. Speaker.

''I don't know if I was told the whole truth on everything,'' said Doug Rice, president of United Auto Workers Local 122. ''I don't feel like I was. It would be a shame if this was something that was known for some time. If they kept this back from people, that's wrong. That's wrong.''—PD May 1

Host: Would that vote have been the same had you had the information you have now?

''No. Needless to say, people ain't going to vote to eliminate their jobs,'' said Doug Rice, President of UAW Local 122 in Twinsburg—WCPN (Public Radio, Sound of Ideas), May 5, 2009

And then the mayor of Twinsburg, Ohio, and, Mr. Speaker, if you haven't been to Twinsburg, I will tell you, you may want to come this summer, or any summer. Twinsburg is famous for its Twins Festival and twins from cradle to very elderly twins show up. Last year I think we had 4,000 sets of twins. If you think you're seeing double, you will see double in Twinsburg during their Twins Festival.

Their mayor wrote to Mr. Bloom, Ron Bloom, who is on the President's automobile task force and basically said, What happened? She was on the call, she heard that everything was going to be okay and now all of a sudden she finds that a Chrysler plant that provides 13 percent of her city's tax base is going to be closed and 1,200 people are going to be out of work.

Basically she said, Look, I watched the President. I was on these telephone calls. What happened?

Mr. Bloom, in a letter dated May 6, writes back that what the President's comments were meant to convey, they meant to convey the message that the bankruptcy of Chrysler had in no way changed these plans.

I would like to put this into the RECORD as well.

MAY 6, 2009.

DEAR MAYOR PROCOP: Thank you for the note. Hopefully I can clarify the situation at hand regarding the Twinsburg Plant. On February 17th, Chrysler developed a viability plan which proposed several plant closures, including a closure of the Twinsburg Stamping Plant. The decision to close the Twinsburg Plant was not in any way driven or influenced by the U.S. Government. It was identified based on an assessment by Chrysler's management of what was necessary to reduce Chrysler's manufacturing capacity in the face of extremely poor market conditions.

While the original 2/17 plan submitted by Chrysler was not deemed viable by the Task Force, the more recently proposed Fiat/Chrysler alliance plan has been approved. This plan included the same plant closure schedule as the one originally proposed by Chrysler, and the President's comments were meant to convey the message that the bankruptcy of Chrysler had in no way changed these plans.

We realize how unfortunate this situation is, especially for the citizens of Twinsburg whose livelihoods are tied so directly to the Chrysler plant. The current economic environment has forced many communities to make sacrifices that seem unequal and unfair, and the Task Force is working actively to mitigate the impacts of these sacrifices. During his viability determination on March 30, the President announced Dr. Ed Montgomery, former Deputy Labor Secretary as Director of Recovery for Auto Communities. Since his announcement Ed has been going into communities and hearing people's concerns and he has been assembling an interagency effort to support communities and workers and promote new job-creating initiatives.

Ed's role is to work with the communities that have been negatively affected, my role is to work with Chrysler and GM in their efforts to restructure, so that we can once again see a strong and competitive domestic auto industry.

Sincerely,

RON BLOOM.

What these plans are that they're talking about is, both car companies, Chrysler and GM, filed viability plans with the task force in February. February 17, I believe. They were both rejected. But somewhere in conversations between the auto task force and Chrysler, it was indicated that there were going to have to be some plant closures. But nobody told anybody. There was no public document, no public discussion, no notification to the United Auto Workers—at least at the local level—that plants were going to be closed. That was the response from Mr. Bloom.

I yield to the gentleman for his thoughts.

Mr. McCOTTER. I appreciate that recap of exactly what happened. And now subsequent to these events which have had such a devastating effect upon my community, Michigan, the entire Midwest and America's manufacturing base, we hear the administration and the task force saying that they did not determine which plants would be closed. They did not determine which dealerships would be closed. That is a factually true statement. But by omission they do not add that they determined how many plants would be closed and how many jobs would be lost and how many dealerships would be closed. Because when they rejected those viability reports, they said they did not go deeply enough quickly enough to provide viability to Chrysler or a path forward for General Motors.

Put in terms of the human cost, that means more people had to lose their jobs, more plants had to close, more dealers had to be culled from the franchise ranks.

So I would hope that in the future with the task force, again that the most transparent administration in United States history by its own profession would be honest with the American people as to where the decision for these lost jobs came from, not merely which ones faced the ax.

Mr. LaTOURETTE. I thank the gentleman.

That leads to the next point. Because Mr. Bloom from the President's task force testified yesterday, or the day before, in the United States Senate. But first let me finish this point.

Going back to the plant closures, what is now on that far easel, that's a paragraph that was in the UAW contract that people were asked to approve, and it specifically was bargained for by the people in my district in Twinsburg. This paragraph certainly doesn't tell them that their plant's going to close the next day, but it indicates that Chrysler's going to bring more work to the stamping plant.

So when my folks went to vote, they voted not thinking they were going to be out of work, they thought that more work was going to be coming via the agreement with Chrysler.

What the gentleman is now referring to is in addition to the 9,000 people put out of work and the eight Chrysler plants and, on top of that, I think it's 14 General Motors plants, we have now been told. For some reason in this bankruptcy, somebody has come up with a brainy idea that you can have better car companies if you don't have any auto dealers. And so the initial request in the bankruptcy was that Chrysler close 789 car dealerships in its network. We now know that General Motors is going to close about 2,600 of theirs. According to the National Automobile Dealers Association, about 60 people work at every car dealership. If you take the combined closings of car dealerships at Chrysler and General Motors, it's north of 200,000 people are going to be thrown out of work that work at these dealerships.

What my friend Mr. McCOTTER was referring to is that when you question the administration, and again not the President. I want to be crystal clear about this. When President Obama said on April 30, this statement, that nobody's going to be negatively impacted, no communities are going to be negatively impacted, I believe he meant it and I believe he believed it to be so.

I don't think, however, that his automobile task force has served him well. By that I mean, Mr. Bloom testified yesterday, or the day before, in the United States Senate and Senator HUTCHISON of the State of Texas said, Hey, I don't understand a couple of things. First of all, it's a strange business model that you can sell more stuff with less stores. I never learned that in Econ 101 or anywhere else while I was in school.

□ 1430

But we don't think that car dealers cost the car companies any money.

But this issue has come up. Who said that all these car dealers costing 200,000 people to lose their jobs needed to be closed? And the gentleman's point is this: When Chrysler and GM submitted their studies about how they wanted to proceed, they had a plan, an orderly closeout of dealerships and consolidations, and they were told they weren't aggressive enough.

Specifically, Mr. Bloom testified over in the Senate that when they rejected the plans, he said, I think we said that General Motors is burdened by excess capacity. We said that their plant footprint, the manufacturing plants, has excess capacity, their dealer network has excess capacity, and the white and blue collar people that work there need to be downsized, and we told General Motors and Chrysler when we rejected their February 17 plan, you need to go back and you need to take a more aggressive approach. And, yes, that included dealers, but it included plants and a white collar head count.

So, it is parsing of words to say, and I have never said and I don't think my friend from Michigan has ever said, that Mr. Bloom said you have to close the dealership in Milwaukee, Wisconsin. They didn't do that. But they did determine the parameters and they did indicate that you had to get down to a certain size, which then led to and will lead to 200,000 people being out of work.

I yield to my friend.

Mr. McCOTTER. I thank the gentleman for yielding.

Again, it cannot be emphasized enough that while we talk about jobs and numbers, and we have talked about the jobs that the United Auto Workers will lose, I can attest to you that throughout this bankruptcy process the people of my community, the people of Michigan, the people at Chrysler and the people at GM thought that we had a chance to avoid a bankruptcy, that that was the hope we were given.

We were given it by the first Bush administration, which initially granted the bridge loan to the autos. Early on in the process, we were told that the auto industry would not be walked away from. Early on in the process we started to get signals, however, that the bankruptcy might become a more and more likely option.

Yet we were never told, as reports are starting to come out, that early on the administration's Auto Task Force had made the decision that bankruptcy would be the best option. And as we watched Chrysler and as we now watch GM, two of the big three domestic auto makers in bankruptcy, we see that clearly that best option was pursued and promoted.

But, again, as the gentleman from Ohio points out, these are figures. These are facts. Throughout this process there was a cruel uncertainty that affected the people of my district, that affected the people of Michigan and throughout the manufacturing sector. No one knew when the bell would toll for them.

So as the process continued, especially if you talk about the United Auto Workers who ratified the agreement, as you got closer to the point of Chrysler going into bankruptcy, when you signed that agreement without any indication that you were going to lose your job and that you might actually be a part of Fiat and Chrysler going forward, to learn in the blink of an eye that all that hope was gone, after you had done everything you could, after your union president and their team had done everything they could to save as many jobs as they possibly could, to lose it all at that point is exceedingly cruel.

I have talked to them. They feel this in my district. I have talked to auto dealers who, after a lifetime of work in the industry, of being pillars of their community, in the blink of an eye have lost everything that they have worked for, who have talked on the phone in tears or in person been on the verge of tears about what happened to them and why they cannot get an answer.

So through the Chair to the gentleman from Ohio, we see a pattern emerging. Again, I absolutely agree with the gentleman from Ohio. I believe that the President had no idea his administration had put the AIG bonuses in the stimulus bill. I truly believe the President of the United States had absolutely no idea about what would follow the consequences of the Chrysler and GM bankruptcies in terms of the human cost to the working people of America.

But what I cannot figure out is that if that is the case, if we are correct in our assessment, why the President of the United States, A, does not want to find out who in his administration put him in that position, and more importantly who put the people of the auto companies and the workers in that position, or the taxpayers of America in that position, and then as the most

transparent administration in American history does not want to tell the American people who those actors were. It would seem to me that would serve the country well and it would serve our President well.

I yield back.

Mr. LATOURETTE. I thank the gentleman. And just to continue talking about the dealers and the 200,000 people, and you know what? It is more than 200,000 people, because I assume most of them have families, husbands, wives, children, grandchildren, whatever the case may be.

The other interesting thing about car dealers, at least in my part of the world in Ohio, if you go to one of your children's Little League games or soccer games, you always see that it is a car dealer that has sponsored the team. The car dealer sponsors the chamber of commerce. The car dealer gives to charity. The car dealer does the food drive. So you are talking about not only displacing 200,000 people; you are talking about ripping the heart out of a number of communities.

You could understand it if these dealerships were somehow a drain on Chrysler and GM. But on June 3, Amy Brown, who is a lawyer for the affected Chrysler dealers, had the opportunity to cross-examine the aforementioned Mr. Nardelli, who was the chief executive officer of Chrysler, and was asked why it was necessary to eliminate the franchises when neither the government nor Fiat, the group that is buying Chrysler out of bankruptcy, asked for it to happen.

Mr. Nardelli said the 789 dealers represent a host of expenses. But then he was asked to quantify how much those things cost the automaker, and Mr. Nardelli said he couldn't, and he wasn't sure if his company had ever determined those exact costs.

At a hearing last week up in bankruptcy court they had a number of dealers in, and there are a number of dealers here on Capitol Hill testifying in front of the Energy and Commerce Committee. But just three quotes from car dealers who testified up in New York in the bankruptcy court.

Leo Jerome, who owns a car dealership in Lansing: ''I just want my day in court and give me a fair hearing. After I had a 10-month supply of cars, they gave me three weeks to sell them all. I think the White House Mafia is trying to run this thing through.''

Tony Manicotti, who has a car dealership in Sterling Heights, Michigan, said, ''They've ripped our heart and soul out. It's been part of me since I was a child. It's hard to believe what the government has done. They are supposed to save employment—not create unemployment.''

And an Orleans Dodge Chrysler Jeep dealer, Mike Comiskey, who was responding to a question by the bankruptcy judge, Judge Gonzalez, his dealership had been ruined by Hurricane Katrina but he reopened it 5 months later. During the course of Hurricane Katrina, he provided fleet vehicles to police departments and fire stations in every parish of Louisiana that was affected by the hurricane, and also provided vehicles for the State of Louisiana and the City of New Orleans.

Mr. Comiskey says, ''I will probably end up living out of my car as a result of this set of decisions.''

Now, it brings me to I think where the gentleman was going, and that is the Clue travel edition: Who is this task force and who made the decision to close eight Chrysler plants without telling the workers that it was going to happen, throwing 9,000 people out of work? Who made the decision to be more aggressive and throw 200,000 people out of work that work for auto dealers?

Now, before I talk about the Auto Task Force qualifications and where we are going to go with the game of Clue, I have to tell you I have mentioned Mr. Manzo, who is the Chrysler restructuring expert, and you may recall, Mr. Speaker, there was some discussion about bondholders. God forbid someone could take some of their money and invest it in a company in this country and be told that they were secured creditors.

The secured creditors at Chrysler had invested money. And you know what? They have since been characterized as ''unpatriotic'' or ''not wanting to go with the flow.''

But the one group that was most prominent in this is the Indiana State Teachers Pension Fund. So the Indiana State Teachers Pension Fund thought that buying Chrysler stock was a good investment and they couldn't lose, because as bondholders they were first in line should something like a bad bankruptcy happen. Well, we have rewritten the 200 years of bankruptcy law, and it doesn't matter if you are a secured creditor or not.

But Mr. Manzo called Matthew Feldman, who is an attorney for the President's Auto Task Force, on the day before this announcement was made, and he basically said, Hey, I think I have a way that we can avoid the bankruptcy of Chrysler and restructure some of this debt and work with the bondholders.

Sadly, this is from an email submitted in the bankruptcy court up in New York. Mr. Feldman's first response by email, not real grownup, it says: ''I'm not now talking to you. You went where you shouldn't.''

Well, Mr. Manzo apologizes in a subsequent email, and it comes back, ''It's over. The President doesn't negotiate second rounds. We have given and lent billions of dollars so your team could manage this properly. And now you're telling me to bend over to a terrorist like Lauria?'' Mr. Lauria is the lawyer that represents the Indiana teachers' pension fund. ''That's BS.''

Of course, the next day we have the bankruptcy.

But you say, you know, maybe this task force of the President's, which I believe is not serving the President well, is made up of people who are really knowledgeable in business, in the car industry, in the car dealership industry, and so we should probably defer, because I don't happen to be any of those things. So maybe we should defer to their judgment in this matter.

The gentleman has a thought he would like to share?

Mr. MCCOTTER. Yes. Through the Speaker to the gentleman from Ohio, first I caution you that if you continue to quote Mr. Feldman, you may get a PG–13 rating for your Special Order.

But I would also like to point out that many of us in Detroit had grave concerns when the membership of the Auto Task Force was announced because of the absence of an understanding of the auto industry and manufacturing, and, to be quite honest with you, the absence of some of the Members owning cars.

I yield back.

Mr. LATOURETTE. I thank the gentleman, and that is where we were going to go next. There was a hearing here on Capitol Hill about 3 weeks ago in the Judiciary Committee and the witnesses were asked by a colleague of ours who joined us the last time we did this, Mr. JORDAN of Ohio, Do any of these individuals on the Auto Task Force have any expertise in how car manufacturing or car dealership businesses operate? The witness indicated the answer is none; they have no experience. He went on to say that The Wall Street Journal actually did a survey of the members of the Auto Task Force and discovered that a substantial portion of them don't even own cars.

Now, I want to be fair, because I think that witness was talking without all of the facts. But there is an article that appeared in the Detroit News, close to the gentleman's home, on February 23, and that is not quite right. Of the 10 senior policy aides who work on the President's task force, two own American cars and the rest either own no cars or they own cars manufactured in other countries, foreign cars.

Does the gentleman have a thought on that?

Mr. MCCOTTER. Yes. I would just like to go back to the quotes from the emails, because it is very important that we catch one of the underlying sub-texts to this entire situation.

We were told that it was the investors that forced Chrysler into bankruptcy due to their obstinacy and greed. And yet from the emails we see here, this is precisely one of those investors who is seeking to come to an agreement with the Auto Task Force to preclude that bankruptcy.

I relate this back to what the gentleman showed us from the UAW, who had gone through a very grueling, excruciating process to find an agreement with the Auto Task Force. And yet when Chrysler went into bankruptcy, which was clearly the intent not to do everything possible to avoid, people started to pit the investors and the auto workers against each other.

I would submit to all that it was the process of the Auto Task Force, its arbitrary nature and its lack of accountability that pitted workers and investors against each other in a race to beat the inevitable bankruptcy which would occur.

I think that is one of the crucial things that needs to be pointed out, and I think it also bears repeating, why the individual, the distinguished gentleman from Ohio, Mr. KUCINICH, as well as yourself and other Members of this body, sent a letter to the administration saying we wanted the Auto Task Force to revert back to an advisory capacity. Because many of us remember the 1970s when a congressionally led assistance of the Chrysler Motor Corporation brought the stakeholders together in an equitable process and resulted not only in the survival of the company, but Lee Iacocca presenting a check with interest for those loans to President Ronald Reagan.

□ 1445

Mr. LATOURETTE. I thank the gentleman very much. Mr. Speaker, could I inquire as to how much time is left?

The SPEAKER pro tempore. The gentleman has 14 minutes.

Mr. LATOURETTE. I want to finish Clue the travel edition and get to something I talked about at the beginning of the hour. But just to finish it, again, the game of Clue, manufactured by Hasbro, we know that the weapon, in this case, not the pen, but the ax, an ax has been used to get about 210,000 people, make them unemployed in this country. And again, we have the same rooms. It happened in one of these rooms. And around the board, down there is Mr. Nardelli, the former chief executive officer of Chrysler, Larry Summers, senior adviser on the economy to the President, President Obama, of course. Over here is Ron Bloom, who I've talked about. Here is Mr. Geithner, who is the Secretary of the Treasury, and here is former President Bush. So this group forms our new Clue travel edition. And as we move forward, I think, again, it is important that the American public know who made the call to force these car companies into bankruptcy; who made the call to lie to 9,000 auto workers at 8 plants across the country, and who made the call that, even though they don't cost anybody any money, that we have to close all these dealerships and put people out of work.

And I keep hearing, and the gentleman has heard it too, that this task force doesn't want to run the day-to-day operations of Chrysler and GM. But sadly, for them, there is an article that appeared on May 11 out of Detroit that indicated that Chrysler wanted to spend $134 million in advertising during the period of its bankruptcy, and this unelected task force told them they couldn't spend any money on advertising. Now, they finally relented and said okay, you can spend half of it. But for a bunch of folks that are claiming they don't want to run the car company, they've now set up the situation where they didn't want them to advertise and they didn't want them to have as many stores as they used to have to sell their cars. Again, that's a strange, strange business model.

So we will be back, Mr. Speaker, as we move forward during the course of these discussions, to try and figure out who did it and what room it happened in and why they did it.

I want to move now to the observation that I made at the beginning of the hour. At the beginning of the hour I talked about the AIG bonuses and the fact that legislation that was approved in a bipartisan fashion, 64–0, has not been brought to the House floor by the distinguished majority leader for discussion and debate. And we keep hearing how busy we are here, and we heard that last year. And my colleagues will remember last year, when gasoline was going through the roof and our phones were ringing off the hook and people said, Hey, can you give us a national energy policy, for crying out loud? We're dying. We can't afford to put gas in our car and drive to work. We were told as well that we were too busy. And I get that. This is the most deliberative body in the world. We have a lot of important work to do. And if the majority truly feels we were too busy to deal with the national energy policy, I would have taken them at their word. But sadly, here is a chart, and then we'll go to the second chart.

When the new majority became the majority, we Republicans did such a bang-up job that the voters threw us out and they installed the Democrats as the majority party beginning on January 29 of 2007. At the time the retail price of gas in the country was $2.22. And on that day the most important thing that they could come up with to debate on the floor was to commend the University of California Santa Barbara soccer team. I like soccer. I congratulate them. And gas isn't so bad—$2.22.

It goes up to $2.84, and the most important thing that the majority can schedule to be on the floor is to declare October National Passport Month. A lot of my constituents didn't know what National Passport Month, what month it occurred in. Now they know.

Gas goes up to $3.03 a gallon. We're not debating the price of gas or a national energy policy. We're commending the Houston Dynamo soccer team.

Now, those of us in public life are told that you don't get elected unless you get the soccer moms. So I guess, you know, while gas is going up to $3.03, we've got the soccer moms; we're all squared away.

Gas goes up to $3.77. The most important thing the majority can put on the floor is declaring National Train Day.

It's getting serious—$3.84. A lot of people are calling me saying, Hey, what are you doing? We passed Great Cats and Rare Canids Day. And I have to tell you, I didn't even know what a rare canid was, but I Googled it, and it's a dog. So when my constituents were paying $3.84 cents a gallon, we were doing cats and dogs here in the United States Congress.

It goes over $4, and you think, man, we're going to get to the bottom of it now. But the majority determined that the most important thing we could do on that day was declare the International 2008—a lot of my constituents didn't know this either—2008 was the International Year of Sanitation.

Gas crested at $4.14 a gallon in my part of the world on June 17 of 2008. Surely we're going to talk about energy; surely we're going to talk about gas. No, we were too busy. We had to pass the Monkey Safety Act on that particular day.

So we thought maybe folks had learned as a result of that because, clearly, when gas has gone up to that price, the Monkey Safety Act isn't the foremost thing on my constituents' minds.

So we come to this year. And this year, as we've talked about during this hour, there are a lot of people at Chrysler losing their jobs. So at the beginning of this Congress, January, 4,000 people at Chrysler are losing their jobs. And you'd think that we'd have a discussion here. I would think. But we're too busy because on that day we needed to honor the life of Claiborne Pell, who was a former Senator. He deserves to be honored. But why are we taking floor time to do that when 4,000 people are out of work just at Chrysler.

It goes up to 9,500. The most important thing that we can do on that day is to support the goals and ideals of national teen dating, an issue that we're all concerned about certainly, but now we have 9,500 Chrysler workers out of work.

It goes up to just shy of 10,000 and, son of a gun, we have to, we've got time to come back, this year, and pass the Monkey Safety Act again. And I want to be clear. I don't want anyone to read my words in the CONGRESSIONAL RECORD and think that I want monkeys who aren't safe. I want safe monkeys. But when you've got 10,000 people out of work at Chrysler, maybe we could do something other than save monkeys.

And son of a gun, and now you're up to 13,000 people, and I guess the Senate didn't pass the cat and dog legislation, so we have to consider that again.

Sixteen thousand people are out of work; the most important thing they can schedule on the floor is honoring Arnold Palmer. I like Arnold Palmer, Latrobe, Pennsylvania, great golfer, deserves to be honored. But how about dealing with the people that are losing their jobs and their livelihoods at Chrysler, General Motors, and the people at the auto dealers?

And then it sort of peaks with the announcement, 18,365 people, just at Chrysler, out of work. And again, all we can do is National Train Day.

Now, I want to be fair to the majority because we do do other stuff here. And I don't want anybody to believe that all we do is monkeys and cats and dogs. Just since the beginning of this year, when Chrysler and General Motors are going belly up and bankrupt, we have also named, and I have to add to this list because we did a couple this week, we've named post offices. And so these 16 post offices, we took an hour of debate here in the House of Representatives, 16 hours, to make sure that—and if anybody, Mr. Speaker, who happens to see this list, they live in these towns, they should feel assured that they can now go in and buy those 44 cent stamps because the United States Congress has named their post office.

And again, it's an important part of what we do here, honoring people who deserve to be honored. But 16 hours, when we could have been talking about Chrysler, when we could have been talking about General Motors, when we could have been talking about the dealers, instead we were naming post offices. And I don't think that the country is better off for that enterprise.

But then again, to be fair, let's say that you're in the majority and that you didn't see this coming and that perhaps, you know, you didn't recognize it was going to be as serious as it was.

We came back last week and went back into session last week. Surely, over the Memorial Day recess, people got an earful from their constituents, saying, What are you going to do about these car companies? What are you going to do about the dealerships? Yet, when we came back last week, you know, maybe we weren't quite ready. Maybe we hadn't formalized how to get at the problem. We passed bills directing fish stocking in the lakes of Washington; we recognized the 75th anniversary of the Great Smoky Mountains; and we shifted from soccer to basketball, and we honored the University of Tennessee Women's Basketball Team.

Then you say, okay, that was the first week back. Everybody is a little sleepy. We haven't quite gotten up to speed with our legislative agenda. This week, rather than dealing with Chrysler, rather than asking some questions of the unelected task force appointed by the President and that doesn't own cars, we recognized that this was National Physical Education and Sport Week.

Also, I didn't know this, but maybe my colleagues know this—and I apologize for being ignorant. June 10 is National Pipeline Safety Day, and we spent an hour of time here on the floor making sure that everybody understood that June 10 is National Pipeline Safety Day.

Mr. Speaker, this is a big problem. I mean we have a double delegation here. The Congress has punted to the President. The President has punted to this task force of people who don't own American cars, the majority of them, or they don't own any cars, and they have no experience in the car business. They are making decisions that affect hundreds of thousands of Americans.

Mr. MCCOTTER talked about the letter that we sent to the President. Thirty-six of us sent a letter to the President, saying, Mr. President, please pull these people back. Let's have a dialogue. Let's bring the best and the brightest.

You know, Mr. MCCOTTER talked about Chrysler. We made $35 million on the Chrysler deal in 1979. The only problem was nobody expected it, and Congress didn't know how to spend the money. Now, people need to rest easy. We figured it out, but nobody knew how to spend that money. Let's talk about it, and let's do this the right way. Let's not have this unelected group of people who have no experience run roughshod over the American worker.

I yield to the gentleman.

Mr. MCCOTTER. May I inquire as to how much time is available?

The SPEAKER pro tempore (Mr. MASSA). There are 30 seconds remaining.

Mr. LATOURETTE. I give you 30 seconds.

Mr. MCCOTTER. Thank you for the 30 seconds.

I just want to point out that, while all of this has been lighthearted, this is very important. We have twice seen the President unaware of what his own administration has done. We hear calls for alacritous action. We hear people saying that we must rush to do health care, that we must rush to do climate change legislation. Let us never forget that government haste makes taxpayer waste. Due deliberateness and prudence are always the best course of action in legislative affairs. We should do a lot more of it here.

I yield back.

Mr. LATOURETTE. I thank the gentleman. I thank the Chair.

I yield back.

CONFERENCE REPORT ON H.R. 2346, SUPPLEMENTAL APPROPRIATIONS ACT, 2009

Mr. OBEY submitted the following conference report and statement on the bill (H.R. 2346) making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes:

CONFERENCE REPORT (H. REPT. 111–151)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2346) making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2009, and for other purposes, namely:

TITLE I

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

For an additional amount for ''Public Law 480 Title II Grants'', $700,000,000, to remain available until expended.

GENERAL PROVISIONS—THIS TITLE

SEC. 101. Notwithstanding any other provision of law, amounts made available to provide assistance under the emergency conservation program established under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202) and unobligated as of the date of the enactment of this Act shall be available to the Secretary of Agriculture, until expended, for expenses under that program related to recovery efforts in response to natural disasters.

SEC. 102. (a) For an additional amount for gross obligations for the principal amount of direct and guaranteed farm ownership (7 U.S.C. 1922 et seq.) and operating (7 U.S.C. 1941 et seq.) loans, to be available from funds in the Agricultural Credit Insurance Fund, as follows: direct farm ownership loans, $360,000,000; direct operating loans, $400,000,000; and unsubsidized guaranteed operating loans, $50,201,000.

(b) For an additional amount for the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: direct farm ownership loans, $22,860,000; direct operating loans, $47,160,000; and unsubsidized guaranteed operating loans, $1,250,000.

TITLE II

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for ''Economic Development Assistance Programs'', $40,000,000, to remain available until September 30, 2010: Provided, That the amount provided under this heading shall be for Trade Adjustment Assistance for Communities under subchapter A, chapter 4, title II of the Trade Act of 1974 (19 U.S.C. 2371 et seq.) and Trade Adjustment Assistance for Firms under chapter 3, title II of the Trade Act of 1974 (19 U.S.C. 2341 et seq.).

DEPARTMENT OF JUSTICE

DETENTION TRUSTEE

For an additional amount for ''Detention Trustee'', $60,000,000, to remain available until September 30, 2010.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for ''Salaries and Expenses'', $1,648,000, to remain available until September 30, 2010.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for ''Salaries and Expenses'', $15,000,000, to remain available until September 30, 2010.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $10,000,000, to remain available until September 30, 2010.

NATIONAL SECURITY DIVISION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $1,389,000, to remain available until September 30, 2010.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $35,000,000, to remain available until September 30, 2010.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $20,000,000, to remain available until September 30, 2010.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $14,000,000, to remain available until September 30, 2010.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $5,038,000, to remain available until September 30, 2010.

GENERAL PROVISION—THIS TITLE

(INCLUDING RESCISSION)

SEC. 201. (a) Of the funds appropriated in chapter 2 of title I of Public Law 110–252 under the heading ''Office of Inspector General'', $3,000,000 is rescinded.

(b) For an additional amount for ''Office of Inspector General'', $3,000,000, to remain available until September 30, 2010.

TITLE III

DEPARTMENT OF DEFENSE

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for ''Military Personnel, Army'', $11,750,687,000.

MILITARY PERSONNEL, NAVY

For an additional amount for ''Military Personnel, Navy'', $1,627,288,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for ''Military Personnel, Marine Corps'', $1,524,947,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for ''Military Personnel, Air Force'', $1,500,740,000.

RESERVE PERSONNEL, ARMY

For an additional amount for ''Reserve Personnel, Army'', $418,155,000.

RESERVE PERSONNEL, NAVY

For an additional amount for ''Reserve Personnel, Navy'', $39,478,000.

RESERVE PERSONNEL, MARINE CORPS

For an additional amount for ''Reserve Personnel, Marine Corps'', $29,179,000.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for ''Reserve Personnel, Air Force'', $14,943,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for ''National Guard Personnel, Army'', $1,775,733,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for ''National Guard Personnel, Air Force'', $45,000,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for ''Operation and Maintenance, Army'', $13,769,418,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for ''Operation and Maintenance, Navy'', $2,274,903,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for ''Operation and Maintenance, Marine Corps'', $1,034,366,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Operation and Maintenance, Air Force'', $5,980,386,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for ''Operation and Maintenance, Defense-Wide'', $5,101,696,000, of which:

(1) not to exceed $12,500,000 for the Combatant Commander Initiative Fund, to be used in support of Operation Iraqi Freedom and Operation Enduring Freedom; and

(2) not to exceed $1,000,000,000, to remain available until expended, for payments to reimburse key cooperating nations, for logistical, military, and other support including access provided to United States military operations in support of Operation Iraqi Freedom and Operation Enduring Freedom, notwithstanding any other provision of law: Provided, That such reimbursement 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 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 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'', $110,017,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for ''Operation and Maintenance, Navy Reserve'', $25,569,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for ''Operation and Maintenance, Marine Corps Reserve'', $30,775,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for ''Operation and Maintenance, Air Force Reserve'', $34,599,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Army National Guard'', $178,446,000.

AFGHANISTAN SECURITY FORCES FUND

For the ''Afghanistan Security Forces Fund'', $3,606,939,000, to remain available until September 30, 2010: Provided, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Combined Security Transition Command—Afghanistan, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Afghanistan, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: Provided further, That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: Provided further, That 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 obligation 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 obligating from this appropriation account, notify the congressional defense committees in writing of the details of any such obligation.

PAKISTAN COUNTERINSURGENCY FUND

(INCLUDING TRANSFER OF FUNDS)

There is hereby established in the Treasury of the United States the ''Pakistan Counterinsurgency Fund''. For the ''Pakistan Counterinsurgency Fund'', $400,000,000, to remain available until September 30, 2010: Provided, That such funds shall be available to the Secretary of Defense, with the concurrence of the Secretary of State, notwithstanding any other provision of law, for the purpose of allowing the Secretary of Defense, or the Secretary's designee, to provide assistance to Pakistan's security forces; including program management and the provision of equipment, supplies, services, training, and funds; and facility and infrastructure repair, renovation, and construction to build the counterinsurgency capability of Pakistan's military and Frontier Corps, and of which up to $2,000,000 shall be available to provide urgent humanitarian assistance to the people of Pakistan only as part of civil-military training exercises for Pakistani security forces receiving assistance under the ''Pakistan Counterinsurgency Fund'' and to assist the Government of Pakistan in creating such a program beginning in fiscal year 2010: Provided further, That the authority to provide assistance under this provision is in addition to any other authority to provide assistance to foreign nations: Provided further, That the Secretary of Defense may transfer such amounts as the Secretary may determine from the funds provided herein to any appropriations available to the Department of Defense or, with the concurrence of the Secretary of State and head of the relevant Federal department or agency, to any other non-intelligence related Federal account to accomplish the purposes provided herein: Provided further, That funds so 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 the authority of the Secretary of Defense to obligate or transfer funds pursuant to this paragraph shall apply only to funds appropriated for such purposes in this Act (including funds appropriated by another paragraph of this Act that are transferred to the ''Pakistan Counterinsurgency Fund'' by such other paragraph), and such authority shall not be continued beyond the expiration date specified in the matter preceding the first proviso, except with respect to funds so transferred to the ''Pakistan Counterinsurgency Fund'' by another paragraph of this Act: Provided further, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation account, notify the Committees on Appropriations in writing of the details of any such transfer.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for ''Aircraft Procurement, Army'', $1,192,744,000, to remain available until September 30, 2011.

MISSILE PROCUREMENT, ARMY

For an additional amount for ''Missile Procurement, Army'', $704,041,000, to remain available 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'', $1,983,971,000, to remain available until September 30, 2011.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for ''Procurement of Ammunition, Army'', $230,075,000, to remain available until September 30, 2011.

OTHER PROCUREMENT, ARMY

For an additional amount for ''Other Procurement, Army'', $7,113,742,000, to remain available until September 30, 2011.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for ''Aircraft Procurement, Navy'', $636,669,000, to remain available until September 30, 2011.

WEAPONS PROCUREMENT, NAVY

For an additional amount for ''Weapons Procurement, Navy'', $29,498,000, to remain available until September 30, 2011.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for ''Procurement of Ammunition, Navy and Marine Corps'', $348,919,000, to remain available until September 30, 2011.

OTHER PROCUREMENT, NAVY

For an additional amount for ''Other Procurement, Navy'', $197,193,000, to remain available until September 30, 2011.

PROCUREMENT, MARINE CORPS

For an additional amount for ''Procurement, Marine Corps'', $1,526,447,000, to remain available until September 30, 2011.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for ''Aircraft Procurement, Air Force'', $4,592,068,000, to remain available until September 30, 2011.

MISSILE PROCUREMENT, AIR FORCE

For an additional amount for ''Missile Procurement, Air Force'', $49,716,000, to remain available until September 30, 2011.

PROCUREMENT OF AMMUNITION, AIR FORCE

For an additional amount for ''Procurement of Ammunition, Air Force'', $158,684,000, to remain available until September 30, 2011.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for ''Other Procurement, Air Force'', $1,802,083,000, to remain available until September 30, 2011.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for ''Procurement, Defense-Wide'', $237,868,000, to remain available until September 30, 2011.

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for ''National Guard and Reserve Equipment'', $500,000,000, to remain available until September 30, 2011: Provided, That such funds may be used only to procure high priority items of equipment that may be used by reserve component units for combat missions and units' missions in support of the State governors: Provided further, That the Chiefs of the National Guard and of the Reserve components shall, not later than 60 days after the enactment of this Act, individually submit to the congressional defense committees a listing of items of equipment to be procured for their respective National Guard or Reserve component.

MINE RESISTANT AMBUSH PROTECTED VEHICLE FUND

(INCLUDING TRANSFER OF FUNDS)

For the ''Mine Resistant Ambush Protected Vehicle Fund'', $4,543,000,000, to remain available until September 30, 2010: Provided, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, to procure, sustain, transport, and field Mine Resistant Ambush Protected vehicles: Provided further, That the Secretary shall transfer such funds only 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 shall, not fewer than 10 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for ''Research, Development, Test and Evaluation, Army'', $52,935,000, to remain available until September 30, 2010.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for ''Research, Development, Test and Evaluation, Navy'', $136,786,000, 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'', $160,474,000, 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'', $483,304,000, to remain available until September 30, 2010.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for ''Defense Working Capital Funds'', $861,726,000, to remain available until expended.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for ''Defense Health Program'', $1,055,297,000, of which $845,508,000 is for operation and maintenance; of which $50,185,000, to remain available until September 30, 2011, is for procurement; and of which $159,604,000, to remain available until September 30, 2010, is for research, development, test and evaluation: Provided, That up to $14,360,000,000 appropriated for operation and maintenance under this heading or any prior Act may be available for contracts entered into under the Tricare program.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Drug Interdiction and Counter-Drug Activities, Defense'', $120,398,000, to remain available until September 30, 2010.

JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND

For an additional amount for ''Joint Improvised Explosive Device Defeat Fund'', $1,116,746,000, to remain available until September 30, 2011.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for ''Office of the Inspector General'', $9,551,000.

GENERAL PROVISIONS—THIS TITLE

SEC. 301. Notwithstanding any other provision of law, funds made available in this title are in addition to amounts appropriated or otherwise made available for the Department of Defense for fiscal year 2009.

(INCLUDING TRANSFER OF FUNDS)

SEC. 302. 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 title: 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 the Department of Defense Appropriations Act, 2009 (division C of Public Law 110–329) except for the fourth proviso.

SEC. 303. Funds appropriated by this Act, or made available by the transfer of funds in this Act, 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)).

(INCLUDING TRANSFER OF FUNDS)

SEC. 304. During fiscal year 2009 and from funds in the ''Defense Cooperation Account'', as established by 10 U.S.C. 2608, the Secretary of Defense may transfer not to exceed $6,500,000 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. 305. Supervision and administration costs associated with a construction project funded with appropriations available for operation and maintenance or ''Afghanistan Security Forces Fund'' provided in this title, and executed in direct support of the overseas contingency operations 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 RESCISSIONS)

SEC. 306. (a)(1) Of the funds appropriated in chapter 2 of title IX of Public Law 110–252 under the heading, ''Iraq Security Forces Fund'', $1,000,000,000 is rescinded.

(2) For an additional amount for ''Iraq Security Forces Fund'', $1,000,000,000, to remain available until September 30, 2010: Provided, That funds may not be obligated or transferred from this fund until 15 days after the date on which the Secretary of Defense notifies the congressional defense committees in writing of the details of the proposed obligation or transfer.

(b) Notwithstanding any other provision of this Act, each amount in this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 307. Funds made available in this title 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: Provided further, That the Secretary shall report to the Congress all purchases made pursuant to this authority within 30 days of using the authority.

SEC. 308. From funds made available in this title, the Secretary of Defense may purchase motor vehicles for use by military and civilian employees of the Department of Defense in Iraq and Afghanistan, up to a limit of $75,000 per vehicle, notwithstanding other limitations applicable to passenger carrying motor vehicles.

(RESCISSIONS)

SEC. 309. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts: Provided, That none of the amounts may be rescinded from amounts that were designated by the Congress as an emergency requirement pursuant to a Concurrent

Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended:

''Procurement, Marine Corps, 2007/2009'', $54,400,000;

''Other Procurement, Army, 2008/2010'', $29,300,000;

''Procurement, Marine Corps, 2008/2010'', $10,300,000;

''Aircraft Procurement, Air Force, 2008/2010'', $44,000,000;

''Research, Development, Test and Evaluation, Navy, 2008/2009'', $11,300,000;

''Research, Development, Test and Evaluation, Air Force, 2008/2009'', $36,107,000;

''Research, Development, Test and Evaluation, Defense-Wide, 2008/2009'', $169,124,000;

''Operation and Maintenance, Army, 2009/2009'', $352,359,000;

''Operation and Maintenance, Navy, 2009/2009'', $881,481,000;

''Operation and Maintenance, Marine Corps, 2009/2009'', $54,466,000;

''Operation and Maintenance, Air Force, 2009/2009'', $925,203,000;

''Operation and Maintenance, Defense-Wide, 2009/2009'', $267,635,000;

''Operation and Maintenance, Army Reserve, 2009/2009'', $23,338,000;

''Operation and Maintenance, Navy Reserve, 2009/2009'', $62,910,000;

''Operation and Maintenance, Marine Corps Reserve, 2009/2009'', $1,250,000;

''Operation and Maintenance, Air Force Reserve, 2009/2009'', $163,786,000;

''Operation and Maintenance, Army National Guard, 2009/2009'', $57,819,000;

''Operation and Maintenance, Air National Guard, 2009/2009'', $250,645,000;

''Aircraft Procurement, Army, 2009/2011'', $22,600,000;

''Procurement of Ammunition, Army, 2009/2011'', $107,100,000;

''Other Procurement, Army, 2009/2011'', $245,000,000;

''Procurement, Marine Corps, 2009/2011'', $10,300,000;

''Other Procurement, Air Force, 2009/2011'', $17,500,000;

''Procurement, Defense-Wide, 2009/2011'', $6,400,000;

''Research, Development, Test and Evaluation, Army, 2009/2010'', $187,710,000;

''Research, Development, Test and Evaluation, Navy, 2009/2010'', $217,060,000; and

''Research, Development, Test and Evaluation, Air Force, 2009/2010'', $287,567,000.

(INCLUDING TRANSFER OF FUNDS)

SEC. 310. (a) RETROACTIVE STOP-LOSS SPECIAL PAY COMPENSATION TO ELIGIBLE CLAIMANTS.—In addition to the amounts appropriated or otherwise made available elsewhere in this Act, $534,400,000 is appropriated to the Department of Defense, to remain available for obligation until expended: Provided, That such funds shall be available to the Secretaries of the military departments only to make payment of claims specified in subsection (b) to members of the Armed Forces, including members of the reserve components, and former and retired members under the jurisdiction of the Secretary who, at any time during the period beginning on September 11, 2001, and ending on September 30, 2009, served on active duty while the members' enlistment or period of obligated service was extended, or whose eligibility for retirement was suspended, pursuant to section 123 or 12305 of title 10, United States Code, or any other provision of law (commonly referred to as a ''stop-loss authority'') authorizing the President to extend an enlistment or period of obligated service, or suspend an eligibility for retirement, of a member of the uniformed services in time of war or of national emergency declared by Congress or the President.

(b) CLAIMS SUBMISSION REQUIRED.—Claims for retroactive Stop-Loss Special Pay compensation under this section shall be submitted to the Secretary of the Military Department concerned not later than 1 year after the date on which the implementing rules of subsection (d) take effect. Notwithstanding any other provision of law, the Secretaries of the military departments may not pay claims that are submitted more than 1 year after the date on which the implementing rules of subsection (d) take effect.

(c) PAYMENT AMOUNT.—The amount to be paid under subsection (a) to or on behalf of an eligible member, retired member, or former member described in such subsection shall be $500 per month for each month or portion of a month during the period specified in such subsection that the member was retained on active duty as a result of application of the stop-loss authority.

(d) RULEMAKING.—Not later than 120 days after the date of enactment of this Act, the Secretary of Defense shall issue rules to expedite the payment of claims under subsection (b).

(e) TREATMENT OF DECEASED MEMBERS.—If an eligible member, retired member, or former member described in subsection (a) dies before the payment required by this section is made, the Secretary concerned shall make the payment in accordance with section 2771 of title 10, United States Code.

(f) EXCLUSION OF CERTAIN FORMER MEMBERS.—A former member of the Armed Forces is not eligible for a payment under this section if the former member was discharged or released from the Armed Forces under other than honorable conditions.

(g) RELATION TO OTHER STOP-LOSS SPECIAL PAY.—A member, retired member, or former member may not receive a payment under this section and stop-loss special pay under section 8116 of the Department of Defense Appropriations Act, 2009 (division C of Public Law 110–329; 122 Stat. 3646) for the same month or portion of a month during which the member was retained on active duty as a result of application of the stop-loss authority.

(h) REPORT ON EXECUTION.—The Secretary of Defense shall provide a report to the congressional defense committees on the implementation of the retroactive stop-loss benefit. The report shall include the following: the number of claims filed, the number of claims approved, the number of claims denied, the number of claims still pending, the amount of funding that has been obligated, the amount of funding still available for this purpose, and the average payment provided. This report is due 1 year after the date on which the implementing rules of subsection (d) take effect, and every 6 months thereafter until all funding provided for this purpose has been obligated and all submitted claims have been processed.

SEC. 311. (a) Section 132 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1392) is repealed.

(b) Notwithstanding any other provision of law, the Secretary of the Air Force may retire C–5A aircraft from the inventory of the Air Force 15 days after certifying to the congressional defense committees that retiring the aircraft will not significantly increase operational risk of not meeting the National Defense Strategy, provided that such retirements may not reduce total strategic airlift force structure inventory below the 292 strategic airlift aircraft level identified in the Mobility Capability Study 2005 (MCS–05) unless otherwise addressed in the fiscal year 2010 National Defense Authorization Act.

SEC. 312. 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).

SEC. 313. None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal years 2008 or 2009 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. 314. None of the funds appropriated or otherwise made available by this or any other Act shall 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.

SEC. 315. None of the funds appropriated or otherwise made available by this or any other Act shall be obligated or expended by the United States Government for the purpose of establishing any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Afghanistan.

SEC. 316. (a) REPORT ON IRAQ TROOP DRAWDOWN STATUS, GOALS, AND TIMETABLE.—In recognition and support of the policy of President Barack Obama to withdraw all United States combat brigades from Iraq by August 31, 2010, and all United States military forces from Iraq on December 31, 2011, Congress directs the Secretary of Defense (in consultation with other members of the National Security Council) to prepare a report that identifies troop drawdown status and goals and includes—

(1) a detailed, month-by-month description of the transition of United States military forces and equipment out of Iraq; and

(2) a detailed, month-by-month description of the transition of United States contractors out of Iraq.

(b) ELEMENTS OF REPORT.—At a minimum, the Secretary of Defense shall address the following:

(1) How the Government of Iraq is assuming the responsibility for reconciliation initiatives as the mission of the United States Armed Forces transitions.

(2) How the drawdown of military forces complies with the President's planned withdrawal of combat brigades by August 31, 2010, and all United States forces by December 31, 2011.

(3) The roles and responsibilities of remaining contractors in Iraq as the United States mission evolves, including the anticipated number of United States contractors to remain in Iraq after August 31, 2010, and December 31, 2011.

(c) SUBMISSION.—

(1) Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter through September 30, 2010, the Secretary of Defense shall submit the report required by subsection (a) and a classified annex to the report, as necessary.

(2) The Secretary may submit the report required by subsection (a) separately as provided in paragraph (1) or include the information required by this report when submitting reports required of the Secretary under section 9204 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 122 Stat. 2410).

(d) EXTENSION OF RELATED REPORTING REQUIREMENT.—Section 9204(a) of the Supplemental Appropriations Act, 2008 is amended by striking ''fiscal year 2009'' and inserting ''fiscal year 2010''.

SEC. 317. (a) REPEAL OF SECRETARY OF DEFENSE REPORTS ON TRANSITION READINESS OF IRAQ AND AFGHAN SECURITY FORCES.—Subsection (a) of section 9205 of Public Law 110–252 (122 Stat. 2412) is repealed.

(b) MODIFICATION OF REPORTS ON USE OF CERTAIN SECURITY FORCES FUNDS.—

(1) PREPARATION IN CONSULTATION WITH COMMANDER OF CENTCOM.—Subsection (b)(1) of such section is amended by inserting ''the Commander of the United States Central Command;'' after ''the Secretary of Defense;''.

(2) PERIOD OF REPORTS.—Such subsection is further amended by striking ''not later than 120 days after the date of the enactment of this Act and every 90 days thereafter'' and inserting

''not later than 45 days after the end of each fiscal year quarter''.

(3) FUNDS COVERED BY REPORTS.—Such subsection is further amended by striking ''and 'Afghanistan Security Forces Fund' '' and inserting '', 'Afghanistan Security Forces Fund', and 'Pakistan Counterinsurgency Fund' ''.

(c) NOTICE NEW PROJECTS AND TRANSFERS OF FUNDS.—Subsection (c) of such section is amended by striking ''the headings'' and all that follows and inserting ''the headings as follows:

''(1) 'Iraq Security Forces Fund'.

''(2) 'Afghanistan Security Forces Fund'.

''(3) 'Pakistan Counterinsurgency Fund'.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 318. (a) Section 1174(h)(1) of title 10, United States Code, is amended to read as follows:

''(1) A member who has received separation pay under this section, or separation pay, severance pay, or readjustment pay under any other provision of law, based on service in the armed forces, and who later qualifies for retired or retainer pay under this title or title 14 shall have deducted from each payment of such retired or retainer pay an amount, in such schedule of monthly installments as the Secretary of Defense shall specify, taking into account the financial ability of the member to pay and avoiding the imposition of undue financial hardship on the member and member's dependents, until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay so paid.''.

(b) Section 1175(e)(3)(A) of title 10, United States Code, is amended to read as follows:

''(3)(A) A member who has received the voluntary separation incentive and who later qualifies for retired or retainer pay under this title shall have deducted from each payment of such retired or retainer pay an amount, in such schedule of monthly installments as the Secretary of Defense shall specify, taking into account the financial ability of the member to pay and avoiding the imposition of undue financial hardship on the member and member's dependents, until the total amount deducted is equal to the total amount of voluntary separation incentive so paid. If the member elected to have a reduction in voluntary separation incentive for any period pursuant to paragraph (2), the deduction required under the preceding sentence shall be reduced as the Secretary of Defense shall specify.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any repayments of separation pay, severance pay, readjustment pay, special separation benefit, or voluntary separation incentive, that occur on or after the date of enactment, including any ongoing repayment actions that were initiated prior to this amendment.

SEC. 319. (a) REPORTS REQUIRED.—Not later than 60 days after the date of the enactment of this Act and every 90 days thereafter, the President shall submit to the members and committees of Congress specified in subsection (b) a report on the prisoner population at the detention facility at Naval Station Guantanamo Bay, Cuba.

(b) SPECIFIED MEMBERS AND COMMITTEES OF CONGRESS.—The members and committees of Congress specified in this subsection are the following:

(1) The majority leader and minority leader of the Senate.

(2) The Chairman and Ranking Member on the Committee on Armed Services of the Senate.

(3) The Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate.

(4) The Chairman and Vice Chairman of the Committee on Appropriations of the Senate.

(5) The Speaker of the House of Representatives.

(6) The minority leader of the House of Representatives.

(7) The Chairman and Ranking Member on the Committee on Armed Services of the House of Representatives.

(8) The Chairman and Vice Chairman of the Permanent Select Committee on Intelligence of the House of Representatives.

(9) The Chairman and Ranking Member of the Committee on Appropriations of the House of Representatives.

(c) MATTERS TO BE INCLUDED.—Each report submitted under subsection (a) shall include the following:

(1) The name and country of origin of each detainee at the detention facility at Naval Station Guantanamo Bay, Cuba, as of the date of such report.

(2) A current summary of the evidence, intelligence, and information used to justify the detention of each detainee listed under paragraph (1) at Naval Station Guantanamo Bay.

(3) A current accounting of all the measures taken to transfer each detainee listed under paragraph (1) to the individual's country of citizenship or another country.

(4) A current description of the number of individuals released or transferred from detention at Naval Station Guantanamo Bay who are confirmed or suspected of returning to terrorist activities after release or transfer from Naval Station Guantanamo Bay.

(5) An assessment of any efforts by al Qaeda to recruit detainees released from detention at Naval Station Guantanamo Bay.

(d) ADDITIONAL MATTERS TO BE INCLUDED IN INITIAL REPORT.—The first report submitted under subsection (a) shall also include the following:

(1) A description of the process that was previously used for screening the detainees described by subsection (c)(4) prior to their release or transfer from detention at Naval Station Guantanamo Bay, Cuba.

(2) An assessment of the adequacy of that screening process for reducing the risk that detainees previously released or transferred from Naval Station Guantanamo Bay would return to terrorist activities after release or transfer from Naval Station Guantanamo Bay.

(3) An assessment of lessons learned from previous releases and transfers of individuals who returned to terrorist activities for reducing the risk that detainees released or transferred from Naval Station Guantanamo Bay will return to terrorist activities after their release or transfer.

TITLE IV

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATION AND MAINTENANCE

For an additional amount for ''Operation and Maintenance'' to dredge navigation channels and repair damage to Corps projects nationwide related to natural disasters, $42,875,000, to remain available until expended: Provided, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate 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 natural disasters as authorized by law, $754,290,000, to remain available until expended: Provided, That the Secretary of the Army is directed to use $315,290,000 of the funds appropriated under this heading to support emergency operations, to repair eligible projects nationwide, and for other activities in response to natural disasters: Provided further, That the Secretary of the Army is directed to use $439,000,000 of the amount provided under this heading for barrier island restoration and ecosystem restoration to restore historic levels of storm damage reduction to the Mississippi Gulf Coast: Provided further, That this work shall be carried out at full Federal expense: Provided further, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

STRATEGIC PETROLEUM RESERVE

(TRANSFER OF FUNDS)

For an additional amount for ''Strategic Petroleum Reserve'', $21,585,723, to remain available until expended, to be derived by transfer from the ''SPR Petroleum Account'' for site maintenance activities.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For an additional amount for ''Weapons Activities'', $30,000,000, to remain available until expended, to be divided among the three national security laboratories of Livermore, Sandia and Los Alamos and other entities to fund a sustainable capability to analyze nuclear and biological weapons intelligence: Provided, That the Secretary of Energy, in cooperation with the Director of National Intelligence, shall provide a written report to the Appropriations Committees of the House of Representatives and the Senate, the Armed Services Committees of the House of Representatives and the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate within 90 days of enactment of this Act on how the Department of Energy will invest these resources to sustain technical and core analytical capabilities.

DEFENSE NUCLEAR NONPROLIFERATION

For an additional amount for ''Defense Nuclear Nonproliferation'', $55,000,000, to remain available until expended.

GENERAL PROVISIONS—THIS TITLE

LIMITED TRANSFER AUTHORITY

SEC. 401. Section 403 of title IV of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended by striking all of the text and inserting the following:

''SEC. 403. LIMITED TRANSFER AUTHORITY.

''The Secretary of Energy may transfer up to 0.5 percent from each amount appropriated to the Department of Energy in this title to any other appropriate account within the Department of Energy, to be used for management and oversight activities: Provided, That the Secretary shall provide a report to the Committees on Appropriations of the House of Representatives and the Senate 15 days prior to any transfer: Provided further, That any funds so transferred under this section shall remain available for obligation until September 30, 2012.''.

WAIVER OF FEDERAL EMPLOYMENT REQUIREMENTS

SEC. 402. Section 4601(c)(1) of the Atomic Energy Defense Act (50 U.S.C. 2701(c)(1)) is amended by striking ''September 30, 2008'' and inserting ''September 30, 2009''.

CORPS OF ENGINEERS TECHNICAL FIX

SEC. 403. (a) IN GENERAL.—Section 3181 of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1158) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (4) through (11) as paragraphs (5), (6), (8), (9), (10), (11), (12), and (13), respectively;

(B) by inserting after paragraph (3) the following:

''(4) NORTHEAST HARBOR, MAINE.—The project for navigation, Northeast Harbor, Maine, authorized by section 2 of the Act of March 2, 1945 (59 Stat. 12).''; and

(C) by inserting after paragraph (6) (as redesignated by subparagraph (A)) the following:

''(7) TENANTS HARBOR, MAINE.—The project for navigation, Tenants Harbor, Maine, authorized by the first section of the Act of March 2, 1919 (40 Stat. 1275).''; and

(2) in subsection (h)—

(A) by striking paragraphs (15) and (16); and

(B) by redesignating paragraphs (17) through (29) as paragraphs (15) through (27), respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1041).

CORPS OF ENGINEERS REPROGRAMMING AUTHORITY

SEC. 404. Unlimited reprogramming authority is granted to the Secretary of the Army for funds provided in title IV—Energy and Water Development of Public Law 111–5 under the heading ''Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil''.

BUREAU OF RECLAMATION REPROGRAMMING AUTHORITY

SEC. 405. Unlimited reprogramming authority is granted to the Secretary of the Interior for funds provided in title IV—Energy and Water Development of Public Law 111–5 under the heading ''Bureau of Reclamation, Water and Related Resources''.

COST ANALYSIS OF TRITIUM PROGRAM CHANGES

SEC. 406. No funds in this Act, or other previous Acts, shall be provided to fund activities related to the mission relocation of either the design authority for the gas transfer systems or tritium research and development facilities during the current fiscal year and until the Department can provide the Senate Appropriations Committee an independent technical mission review and cost analysis by the JASON's as proposed in the Complex Transformation Site-Wide Programmatic Environmental Impact Statement.

CORPS OF ENGINEERS PROJECT COST CEILING INCREASE

SEC. 407. The project for ecosystem restoration, Upper Newport Bay, California, authorized by section 101(b)(9) of the Water Resources Development Act of 2000 (114 Stat. 2577), is modified to authorize the Secretary to construct the project at a total cost of $50,659,000, with an estimated Federal cost of $32,928,000 and a non-Federal cost of $17,731,000.

TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM

SEC. 408. The matter under the heading ''Title 17 Innovative Technology Loan Guarantee Program'' of title III of division C of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 619) is amended in the ninth proviso—

(1) by striking ''or (d)'' and inserting ''(d)''; and

(2) by striking ''the guarantee'' and inserting ''the guarantee; (e) contracts, leases or other agreements entered into prior to May 1, 2009 for front-end nuclear fuel cycle projects, where such project licenses technology from the Department of Energy, and pays royalties to the federal government for such license and the amount of such royalties will exceed the amount of federal spending, if any, under such contracts, leases or agreements; or (f) grants or cooperative agreements, to the extent that obligations of such grants or cooperative agreements have been recorded in accordance with section 1501(a)(5) of title 31, United States Code, on or before May 1, 2009''.

TITLE V

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $2,936,000, of which $800,000 shall remain available until expended and $2,136,000 shall remain available until September 30, 2010.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Salaries and Expenses'', $10,000,000, to remain available until September 30, 2010: Provided, That notwithstanding section 302 of division D of Public Law 111–8, funding shall be available for transfer between Judiciary accounts to meet increased workload requirements resulting from immigration and other law enforcement initiatives.

INDEPENDENT AGENCIES

FINANCIAL CRISIS INQUIRY COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Financial Crisis Inquiry Commission established pursuant to section 5 of the Fraud Enforcement and Recovery Act of 2009 (Public Law 111–21), $8,000,000, to remain available until February 15, 2011.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For an additional amount for necessary expenses for the Securities and Exchange Commission, $10,000,000, to remain available until September 30, 2010, for investigation of securities fraud.

GENERAL PROVISIONS—THIS TITLE

SEC. 501. (a) IN GENERAL.—Section 3(c)(2)(A) of Public Law 110–428 is amended—

(1) in the matter before clause (i), by striking ''4-year'' and inserting ''5-year''; and

(2) in clause (i), by striking ''1-year'' and inserting ''2-year''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of Public Law 110–428.

SEC. 502. The fourth proviso under the heading ''District of Columbia Funds'' of title IV of division D of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 655) is amended by striking ''and such title'' and inserting '', as amended by laws enacted pursuant to section 442(c) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 (87 Stat. 798), and such title, as amended,''.

SEC. 503. Title V of division D of the Omnibus Appropriations Act, 2009 (Public Law 111–8) is amended under the heading ''Federal Communications Commission'' by striking the first proviso and inserting the following: ''Provided, That of the funds provided, not less than $3,000,000 shall be available for developing a national broadband plan pursuant to title VI of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) and for carrying out any other responsibility pursuant to that title:''.

EXTENSION OF LIMITATIONS

SEC. 504. (a) IN GENERAL.—Section 44(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving the margins 2 ems to the right;

(2) by striking ''evidence of debt by any insured'' and inserting the following: ''evidence of debt by—

''(A) any insured''; and

(3) by striking the period at the end and inserting the following: ''; and

''(B) any nondepository institution operating in such State, shall be equal to not more than the greater of the State's maximum lawful annual percentage rate or 17 percent—

''(i) to facilitate the uniform implementation of federally mandated or federally established programs and financings related thereto, including—

''(I) uniform accessibility of student loans, including the issuance of qualified student loan bonds as set forth in section 144(b) of the Internal Revenue Code of 1986;

''(II) the uniform accessibility of mortgage loans, including the issuance of qualified mortgage bonds and qualified veterans' mortgage bonds as set forth in section 143 of such Code;

''(III) the uniform accessibility of safe and affordable housing programs administered or subject to review by the Department of Housing and Urban Development, including—

''(aa) the issuance of exempt facility bonds for qualified residential rental property as set forth in section 142(d) of such Code;

''(bb) the issuance of low income housing tax credits as set forth in section 42 of such Code, to facilitate the uniform accessibility of provisions of the American Recovery and Reinvestment Act of 2009; and

''(cc) the issuance of bonds and obligations issued under that Act, to facilitate economic development, higher education, and improvements to infrastructure, and the issuance of bonds and obligations issued under any provision of law to further the same; and

''(ii) to facilitate interstate commerce generally, including consumer loans, in the case of any person or governmental entity (other than a depository institution subject to subparagraph (A) and paragraph (2)).''.

(b) EFFECTIVE PERIOD.—The amendments made by subsection (a) shall apply with respect to contracts consummated during the period beginning on the date of enactment of this Act and ending on December 31, 2010.

TITLE VI

DEPARTMENT OF HOMELAND SECURITY

U.S. CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $46,200,000, to remain available until September 30, 2010, of which $6,200,000 shall be for the care, treatment, and transportation of unaccompanied alien children; and of which $40,000,000 shall be for response to border security issues on the Southwest border of the United States.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For an additional amount for ''Air and Marine Interdiction, Operations, Maintenance, and Procurement'', $5,000,000, to remain available until September 30, 2010, for response to border security issues on the Southwest border of the United States.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $66,800,000, to remain available until September 30, 2010, of which $11,800,000 shall be for the care, treatment, and transportation of unaccompanied alien children; and of which $55,000,000 shall be for response to border security issues on the Southwest border of the United States.

COAST GUARD

OPERATING EXPENSES

For an additional amount for ''Operating Expenses'', $139,503,000; of which $129,503,000 shall be for Coast Guard operations in support of Operation Iraqi Freedom and Operation Enduring Freedom; and of which $10,000,000 shall be available until September 30, 2010, for High Endurance Cutter maintenance, major repairs, and improvements.

FEDERAL EMERGENCY MANAGEMENT AGENCY

STATE AND LOCAL PROGRAMS

For an additional amount for ''State and Local Programs'', $30,000,000 shall be for Operation Stonegarden.

GENERAL PROVISIONS—THIS TITLE

SEC. 601. Notwithstanding sections 12112, 55102, and 55103 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating shall issue a certificate of documentation with appropriate endorsement for engaging in the coastwise trade in the State of Alabama for the drydock ALABAMA (United States official number 641504).

SEC. 602. Notwithstanding sections 55101, 55103, and 12112 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with a coastwise endorsement for the vessel MARYLAND INDEPENDENCE (official number 662573). The coastwise endorsement issued under authority of this section is terminated if—

(1) the vessel, or controlling interest in the person that owns the vessel, is conveyed after the date of enactment of this Act; or

(2) any repairs or alterations are made to the vessel outside of the United States.

(INCLUDING RESCISSION OF FUNDS)

SEC. 603. (a) RESCISSION.—Of amounts previously made available from ''Federal Emergency Management Agency, Disaster Relief'' to the State of Mississippi pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) for Hurricane Katrina, an additional $100,000,000 are rescinded.

(b) APPROPRIATION.—For ''Federal Emergency Management Agency, State and Local Programs'', there is appropriated an additional $100,000,000, to remain available until expended, for a grant to the State of Mississippi for an interoperable communications system required in the aftermath of Hurricane Katrina.

SEC. 604. The Department of Homeland Security Appropriations Act, 2009 (Public Law 110–329) is amended under the heading ''Federal Emergency Management Agency, Management and Administration'' after ''the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.),'' by adding ''Cerro Grande Fire Assistance Act of 2000 (division C, title I, 114 Stat. 583),''.

SEC. 605. Notwithstanding any provision under (a)(1)(A) of 15 U.S.C. 2229a specifying that grants must be used to increase the number of firefighters in fire departments, the Secretary of Homeland Security may, in making grants described under 15 U.S.C. 2229a for fiscal year 2009 or fiscal year 2010, grant waivers from the requirements of subsection (a)(1)(B), subsection (c)(1), subsection (c)(2), and subsection (c)(4)(A), and may award grants for the hiring, rehiring, or retention of firefighters.

SEC. 606. The Administrator of the Federal Emergency Management Agency shall extend through March 2010 reimbursement of State-run case management programs related to Hurricanes Katrina and Rita for individuals in such programs on April 30, 2009.

SEC. 607. Section 552 of division E of the Consolidated Appropriations Act, 2008 (Public Law 110–161) is amended by striking ''local educational agencies'' and inserting ''primary or secondary school sites'' and by inserting ''and section 406(c)(2)'' after ''section 406(c)(1)''.

SEC. 608. For purposes of qualification for loans made under the Disaster Assistance Direct Loan Program as allowed under Public Law 111–5 relating to disaster declaration FEMA–1791–DR (issued September 13, 2008) the base period for tax determining loss of revenue may be fiscal year 2009 or fiscal year 2010.

SEC. 609. (a) FEDERAL SHARE OF DISASTER ASSISTANCE.—Notwithstanding any other provision of law, including any agreement, the Federal share of assistance, including direct Federal assistance provided under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172), for damages resulting from Hurricane Ike (FEMA–1791–DR and FEMA–1792–DR), shall be 90 percent of the eligible costs under such section and shall be 100 percent of such costs under sections 403 and 407 of such Act (42 U.S.C. 5170b and 5173).

(b) Notwithstanding any other provision of law, including any agreement, the Federal share of assistance, including direct Federal assistance provided under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172), for FEMA–1841–DR shall be 90 percent of the eligible costs under such section and shall be 100 percent of such costs under sections 403 and 407 of such Act (42 U.S.C. 5170b and 5173).

(c) Notwithstanding any other provision of law, including any agreement, the Federal share of assistance, including direct Federal assistance provided under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172), for FEMA–1838–DR shall be 90 percent of the eligible costs under such section and shall be 100 percent of such costs under sections 403 and 407 of such Act (42 U.S.C. 5170b and 5173).

(d) APPLICABILITY.—The Federal share provided by subsections (a), (b), and (c) shall apply to disaster assistance provided before, on, or after the date of enactment of this Act.

TITLE VII

DEPARTMENT OF THE INTERIOR

DEPARTMENT-WIDE PROGRAMS

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to cover necessary expenses for wildfire suppression and emergency rehabilitation activities of the Department of the Interior, $50,000,000, to remain available until expended: Provided, That such funds shall only become available if funds provided previously for wildland fire suppression will be exhausted imminently and after the Secretary of the Interior notifies the Committees on Appropriations of the House of Representatives and the Senate in writing of the need for these additional funds: Provided further, That the Secretary of the Interior may transfer any of these funds to the Secretary of Agriculture if the transfer enhances the efficiency or effectiveness of Federal wildland fire suppression activities.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to cover necessary expenses for wildfire suppression and emergency rehabilitation activities of the Forest Service, $200,000,000, to remain available until expended: Provided, That such funds shall only become available if funds provided previously for wildland fire suppression will be exhausted imminently and after the Secretary of Agriculture notifies the Committees on Appropriations of the House of Representatives and the Senate in writing of the need for these additional funds: Provided further, That the Secretary of Agriculture may transfer not more than $50,000,000 of these funds to the Secretary of the Interior if the transfer enhances the efficiency or effectiveness of Federal wildland fire suppression activities.

GENERAL PROVISION—THIS TITLE

SEC. 701. Public Law 111–8, division E, title III, Department of Health and Human Services, Agency for Toxic Substances and Disease Registry, Toxic Substances and Environmental Public Health is amended by inserting ''per eligible employee'' after ''$1,000''.

TITLE VIII

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES

REFUGEE AND ENTRANT ASSISTANCE

For an additional amount for ''Refugee and Entrant Assistance'' for necessary expenses for unaccompanied alien children as authorized by section 462 of the Homeland Security Act of 2002 and section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, $82,000,000, to remain available through September 30, 2011.

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Public Health and Social Services Emergency Fund'' to prepare for and respond to an influenza pandemic, including the development and purchase of vaccine, antivirals, necessary medical supplies, diagnostics, and other surveillance tools and to assist international efforts and respond to international needs relating to the 2009–H1N1 influenza outbreak, $1,850,000,000, to remain available until expended: Provided, That no less than $350,000,000 shall be for upgrading State and local capacity: Provided further, That no less than $200,000,000 shall be transferred to the Centers for Disease Control and Prevention to carry out global and domestic disease surveillance, laboratory capacity and research, laboratory diagnostics, risk communication, rapid response, and quarantine: Provided further, That products purchased with these funds may, at the discretion of the Secretary of Health and Human Services (''Secretary''), be deposited in the Strategic National Stockpile under section 319F–2 of the Public Health Service Act: Provided further, That notwithstanding section 496(b) of the Public Health Service Act, funds may be used for the construction or renovation of privately owned facilities for the production of pandemic influenza vaccine and other biologics, where the Secretary finds such a contract necessary to secure sufficient supplies of such vaccines or biologics: Provided further, That funds appropriated in this paragraph and not specifically designated in this paragraph may be transferred to, and merged with, other appropriation accounts of the Department of Health and Human Services and other Federal agencies, as determined by the Secretary to be appropriate, to be used for the purposes specified in this paragraph and to the fund authorized by section 319F–4 of the Public Health Service Act: Provided further, That transfers to other Federal agencies shall be made in consultation with the Director of the Office of Management and Budget: Provided further, That 15 days prior to transferring any funds in this paragraph, the Secretary shall notify the Committees on Appropriations of the House of Representatives and the Senate of any such transfer and the planned uses of the funds: Provided further, That the transfer authority provided in this paragraph is in addition to any other transfer authority available in this or any other Act.

For an additional amount for ''Public Health and Social Services Emergency Fund'' to prepare for and respond to an influenza pandemic, including the development and purchase of vaccine, antivirals, necessary medical supplies, diagnostics, and other surveillance tools and to assist international efforts and respond to international needs, $5,800,000,000, to remain available until expended: Provided, That products purchased with these funds may, at the discretion of the Secretary of Health and Human Services, be deposited in the Strategic National Stockpile under section 319F–2 of the Public Health Service Act: Provided further, That funds provided in this paragraph shall be available for obligation only in the amounts designated by the President in one or more written

notices to the Congress as emergency funds required to address critical needs related to emerging influenza viruses: Provided further, That funds appropriated in this paragraph may be transferred to, and merged with, other appropriation accounts of the Department of Health and Human Services and other Federal agencies to be used for the purposes specified in this paragraph and to the fund authorized by section 319F–4 of the Public Health Service Act: Provided further, That transfers to other Federal agencies shall be made in consultation with the Director of the Office of Management and Budget: Provided further, That none of the funds provided in this paragraph shall be made available for obligation until 15 days following the submittal of a detailed obligation plan to the Committees on Appropriations of the House of Representatives and the Senate by the Department of Health and Human Services or any other Federal agency receiving funds: Provided further, That such plan shall be coordinated with the Executive Office of the President, shall identify the amounts and the activities for which funds are specified by the President, and shall be subject to reprogramming procedures: Provided further, That the transfer authority provided in this paragraph is in addition to any other transfer authority available in this or any other Act.

GENERAL PROVISIONS—THIS TITLE

(TRANSFER OF FUNDS)

SEC. 801. Section 801(a) of division A of Public Law 111–5 is amended by inserting '', and may be transferred by the Department of Labor to any other account within the Department for such purposes'' before the end period.

SEC. 802. Title II of division F of the Omnibus Appropriations Act, 2009 (Public Law 111–8) is amended under the heading ''Children and Families Services Programs''—

(1) by striking the first proviso in its entirety; and

(2) by striking ''Provided further'' the first place it appears and inserting ''Provided''.

SEC. 803. The Commissioner of the Rehabilitation Services Administration, or the Director of a designated State unit that has approval to make awards under section 723 of the Rehabilitation Act, may allocate funds appropriated under the American Reinvestment and Recovery Act of 2009 (Public Law 111–5) (''ARRA'') for the Centers for Independent Living Program among centers in a State without regard to the priority in section 722(e)(3) or section 723(e)(3) of the Rehabilitation Act of 1973 for funding new centers if the allocation is consistent with the provisions of the State plan submitted under section 704 of the Rehabilitation Act and approved by the Commissioner. Such funds and other Independent Living funds available under ARRA that are being set aside by the Department of Education for competitive grants may be used to support multi-year grants of up to 5 years and may be expended by any recipients of such multi-year grants during the project period of the grant, notwithstanding any provision in the Rehabilitation Act limiting the period of availability for obligation or expenditure by the grantee.

(INCLUDING TRANSFER OF FUNDS)

SEC. 804. (a) Notwithstanding any other provision of law, during the period from September 1 through September 30, 2009, the Secretary of Education shall transfer to the Career, Technical, and Adult Education account an amount not to exceed $10,260,000 from amounts that would otherwise lapse at the end of fiscal year 2009 and that were originally made available under the Department of Education Appropriations Act, 2009 or any Department of Education Appropriations Act for a previous fiscal year.

(b) Funds transferred under this section to the Career, Technical, and Adult Education account shall be obligated by September 30, 2009.

(c) Any amounts transferred pursuant to this section shall be for carrying out Adult Education State Grants, and shall be allocated, notwithstanding any other provision of law, only to those States that received funds under that program for fiscal year 2009 that were at least 9.9 percent less than those States received under that program for fiscal year 2008.

(d) The Secretary shall use these additional funds to increase those States' allocations under that program up to the amount they received under that program for fiscal year 2008.

(e) The Secretary shall notify the Committees on Appropriations of both Houses of Congress of any transfer pursuant to this section.

TITLE IX

LEGISLATIVE BRANCH

CAPITOL POLICE

GENERAL EXPENSES

For an additional amount for ''Capitol Police, General Expenses'', $71,606,000, to purchase and install a new radio system for the U.S. Capitol Police, to remain available until September 30, 2012: Provided, That the Chief of the Capitol Police may not obligate any of the funds appropriated under this heading without approval of an obligation plan by the Committees on Appropriations of the Senate and the House of Representatives.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $2,000,000, to remain available until September 30, 2010.

TITLE X

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSION)

For an additional amount for ''Military Construction, Army'', $1,326,231,000, of which $680,850,000 shall remain available until September 30, 2010, and of which $645,381,000 for child development centers, warrior in transition facilities, hurricane damage repair, and planning and design shall remain available until September 30, 2013: Provided, That notwithstanding any other provision of law, 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 provided under this heading, not to exceed $68,081,000 shall be available for study, planning, design, and architect and engineer services: Provided further, That none of the funds provided under this heading for military construction projects in Afghanistan shall be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that a prefinancing statement for each project has been submitted to the North Atlantic Treaty Organization (NATO) for consideration of funding by the NATO Security Investment Program: Provided further, That, notwithstanding any other provision of this Act, of the funds provided under this heading, $143,242,000 are designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010: Provided further, That of the funds appropriated for ''Military Construction, Army'' under Public Law 110–252, $143,242,000 are hereby rescinded.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for ''Military Construction, Navy and Marine Corps'', $235,881,000, to remain available until September 30, 2013: Provided, That notwithstanding any other provision of law, 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 provided under this heading, not to exceed $11,000,000 shall be available for study, planning, design, and architect and engineer services.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for ''Military Construction, Air Force'', $281,620,000, of which $258,150,000 shall remain available until September 30, 2010, and of which $23,470,000 for child development centers and planning and design shall remain available until September 30, 2013: Provided, That notwithstanding any other provision of law, 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 provided under this heading, not to exceed $12,070,000 shall be available for study, planning, design, and architect and engineer services: Provided further, That none of the funds provided under this heading for military construction projects in Afghanistan shall be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that a prefinancing statement for each project has been submitted to the North Atlantic Treaty Organization (NATO) for consideration of funding by the NATO Security Investment Program.

MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for ''Military Construction, Defense-Wide'', $661,552,000, to remain available until September 30, 2013: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: Provided further, That of the amount provided under this heading, $169,500,000 shall be for the construction of a National Security Agency data center and $488,000,000 shall be for the construction of hospitals: Provided further, That $1,589,500,000 is hereby authorized for the National Security Agency data center for fiscal years 2009 through 2013 for the purposes of this appropriation: Provided further, That not later than 30 days after the enactment of this Act, the Secretary of Defense shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for the funds provided for hospital construction under this heading.

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For an additional amount for ''North Atlantic Treaty Organization Security Investment Program'', $100,000,000, to remain available until expended: Provided, That notwithstanding any other provision of law, such funds are authorized for the North Atlantic Treaty Security Investment Program for purposes of section 2806 of title 10, United States Code, and section 2502 of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110–417).

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), $263,300,000, to remain available until expended: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out operation and maintenance, planning and design and military construction projects not otherwise authorized by law.

GENERAL PROVISIONS—THIS TITLE

SEC. 1001. None of the funds appropriated in this or any other Act may be used to disestablish, reorganize, or relocate the Armed Forces Institute of Pathology, except for the Armed Forces Medical Examiner and the National Museum of Health and Medicine, until the President has established, as required by section 722

of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 199; 10 U.S.C. 176 note), a Joint Pathology Center, and the Joint Pathology Center is demonstrably performing the minimum requirements set forth in section 722 of the National Defense Authorization Act for Fiscal Year 2008.

SEC. 1002. (a) ENTITLEMENT.—Section 3311 of title 38, United States Code, is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

''(9) An individual who is the child of a person who, on or after September 11, 2001, dies in line of duty while serving on active duty as a member of the Armed Forces.''; and

(2) by adding at the end the following new subsection:

''(f) MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP.—

''(1) IN GENERAL.—Educational assistance payable by reason of paragraph (9) of subsection (b) shall be known as the 'Marine Gunnery Sergeant John David Fry scholarship'.

''(2) DEFINITION OF CHILD.—For purposes of that paragraph, the term 'child' includes a married individual or an individual who is above the age of twenty-three years.''.

(b) AMOUNT.—Section 3313(c)(1) of such title is amended by striking ''section 3311(b)(1) or 3311(b)(2)'' and inserting ''paragraph (1), (2), or (9) of section 3311(b)''.

(c) TIME LIMITATION FOR USE.—Section 3321(b) of such title is amended by adding at the end the following new paragraph:

''(4) APPLICABILITY TO CHILDREN OF DECEASED MEMBERS.—The period during which an individual entitled to educational assistance by reason of section 3311(b)(9) may use such individual's entitlement expires at the end of the 15-year period beginning on the date of such individual's eighteenth birthday.''.

(d) EFFECTIVE DATE; APPLICABILITY.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect on August 1, 2009.

(2) APPLICABILITY.—The Secretary of Veterans Affairs shall begin making payments to individuals entitled to educational assistance by reason of paragraph (9) of section 3311(b) of title 38, United States Code, as added by subsection (a), by not later than August 1, 2010. In the case of an individual entitled to educational assistance by reason of such paragraph for the period beginning on August 1, 2009, and ending on July 31, 2010, the Secretary shall make retroactive payments to such individual for such period by not later than August 1, 2010.

TITLE XI

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Diplomatic and Consular Programs'', $997,890,000, to remain available until September 30, 2010, of which $146,358,000 is for Worldwide Security Protection and shall remain available until expended: Provided, That the Secretary of State may transfer up to $137,600,000 of the funds made available under this heading to any other appropriation of any department or agency of the United States, upon the concurrence of the head of such department or agency, to support operations in and assistance for Afghanistan and to carry out the provisions of the Foreign Assistance Act of 1961: Provided further, That of the funds appropriated under this heading, up to $10,000,000 for public diplomacy activities may be transferred to, and merged with, funds made available under the heading ''International Broadcasting Operations'' for broadcasting activities to the Pakistan-Afghanistan border region.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of Inspector General'', $24,122,000, to remain available until September 30, 2010, of which $7,000,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight, and $7,200,000 shall be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight: Provided, That the Special Inspector General for Afghanistan Reconstruction may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of such section) for funds made available for fiscal years 2009 and 2010: Provided further, That the Inspector General of the United States Department of State and the Broadcasting Board of Governors, the Special Inspector General for Iraq Reconstruction, the Special Inspector General for Afghanistan Reconstruction, and the Inspector General of the United States Agency for International Development shall coordinate and integrate the programming of funds made available under this heading in fiscal year 2009 for oversight of programs in Afghanistan, Pakistan and Iraq: Provided further, That the Secretary of State shall submit to the Committees on Appropriations, within 30 days of completion, the annual comprehensive audit plan for the Middle East and South Asia developed by the Southwest Asia Joint Planning Group in accordance with section 842 of Public Law 110–181.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for ''Embassy Security, Construction, and Maintenance'', $921,500,000, to remain available until expended, for worldwide security upgrades, acquisition, and construction as authorized, and shall be made available for secure diplomatic facilities and housing for United States mission staff in Afghanistan and Pakistan, and for mobile mail screening units.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for ''Contributions for International Peacekeeping Activities'', $721,000,000, to remain available until September 30, 2010.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

FUNDS APPROPRIATED TO THE PRESIDENT

OPERATING EXPENSES

For an additional amount for ''Operating Expenses'', $157,600,000, to remain available until September 30, 2010.

CAPITAL INVESTMENT FUND

For an additional amount for ''Capital Investment Fund'', $48,500,000, to remain available until expended.

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'', $3,500,000, to remain available until September 30, 2010, for oversight of programs in Afghanistan and Pakistan.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

GLOBAL HEALTH AND CHILD SURVIVAL

For an additional amount for ''Global Health and Child Survival'', $150,000,000, to remain available until September 30, 2010: Provided, That $50,000,000 shall be made available for pandemic preparedness and response: Provided further, That $100,000,000 shall be made available, notwithstanding any other provision of law, except for the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (Public Law 108–25), for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria: Provided further, That notwithstanding any other provision of law, to include minimum funding requirements or funding directives, if the President determines and reports to the Committees on Appropriations that the human-to-human transmission of the H1N1 virus is efficient and sustained, severe, and is spreading internationally, funds made available under the headings ''Global Health and Child Survival'', ''Development Assistance'', ''Economic Support Fund'', and ''Millennium Challenge Corporation'' in prior Acts making appropriations for the Department of State, foreign operations, and related programs may be made available to combat the H1N1 virus: Provided further, That funds made available pursuant to the authority of the previous proviso shall be subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for ''International Disaster Assistance'', $270,000,000, to remain available until expended.

ECONOMIC SUPPORT FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Economic Support Fund'', $2,973,601,000, to remain available until September 30, 2010: Provided, That of the funds made available under this heading for assistance for the West Bank and Gaza, $2,000,000 shall be transferred to, and merged with, funds available under the heading ''United States Agency for International Development, Funds Appropriated to the President, Office of Inspector General'' to conduct oversight of programs in the West Bank and Gaza: Provided further, That of the amounts made available for assistance for the West Bank and Gaza, not more than $200,000,000 may be made available for cash transfer assistance to the Palestinian Authority: Provided further, That none of the funds made available under this heading for cash transfer assistance to the Palestinian Authority may be obligated for salaries of personnel of the Palestinian Authority located in Gaza: Provided further, That of the funds appropriated under this heading, up to $10,000,000 may be made available for humanitarian assistance in Burma for individuals and communities impacted by Cyclone Nargis, notwithstanding any other provision of law: Provided further, That of the funds appropriated under this heading for assistance for Afghanistan and Pakistan, assistance may be provided notwithstanding any provision of law that restricts assistance to foreign countries for cross border stabilization and development programs between Afghanistan and Pakistan or between either country and the Central Asian republics, and shall be administered by the Special Representative for Afghanistan and Pakistan at the Department of State: Provided further, That none of the funds appropriated in this title for democracy and civil society programs may be made available for the construction of facilities in the United States.

ASSISTANCE FOR EUROPE, EURASIA AND CENTRAL ASIA

For an additional amount for ''Assistance for Europe, Eurasia and Central Asia'', $272,000,000, to remain available until September 30, 2010, of which $242,000,000 shall be available for assistance for Georgia: Provided, That funds appropriated under this heading may be made available for assistance for other Eurasian countries to meet unanticipated requirements only if the Secretary of State determines and reports to the Committees on Appropriations that to do so is in the national security interests of the United States: Provided further, That of the funds appropriated under this heading, $30,000,000 may be made available for assistance for the Kyrgyz Republic to provide a long-range air traffic control and safety system to support air operations in the Kyrgyz Republic, including at Manas International Airport, notwithstanding any other provision of law: Provided further, That funds appropriated under this heading shall be subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for ''International Narcotics Control and Law Enforcement'', $487,500,000, to remain available until September 30, 2010: Provided, That not less than $160,000,000 shall be made available for assistance for Mexico to combat drug trafficking and related violence and organized crime, and for judicial reform, institution building, anti-corruption, and rule of law activities: Provided further, That funds made available pursuant to the previous proviso shall be made available subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations, except that notifications shall be transmitted at least 5 days in advance of the obligation of any funds appropriated under this heading: Provided further, That none of the funds appropriated in this title may be made available for the cost of fuel for aircraft provided to Mexico, or for operations and maintenance of aircraft purchased by the Government of Mexico: Provided further, That in order to enhance border security and cooperation in law enforcement efforts between Mexico and the United States, funds appropriated in this title that are available for assistance for Mexico may be made available for the procurement of law enforcement communications equipment only if such equipment utilizes open standards and is compatible with, and capable of operating with, radio communications systems and related equipment utilized by Federal law enforcement agencies in the United States to enhance border security and cooperation in law enforcement efforts between Mexico and the United States.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for ''Nonproliferation, Anti-Terrorism, Demining and Related Programs'', $102,000,000, to remain available until September 30, 2010, of which up to $77,000,000 may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation, disarmament and weapons destruction, and shall remain available until expended: Provided, That funds made available for the Nonproliferation and Disarmament Fund shall be subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations: Provided further, That the Secretary of State shall work assiduously to facilitate the regular flow of people and licit goods in and out of Gaza at established border crossings.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for ''Migration and Refugee Assistance'', $390,000,000, to remain available until expended.

INTERNATIONAL SECURITY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

PEACEKEEPING OPERATIONS

For an additional amount for ''Peacekeeping Operations'', $185,000,000, to remain available until September 30, 2010: Provided, That up to $168,000,000 may be made available for assistance for Somalia, of which up to $115,900,000 may be used to pay assessed expenses of international peacekeeping activities in Somalia: Provided further, That of the funds appropriated under this heading, $15,000,000 shall be made available for assistance for the Democratic Republic of the Congo and $2,000,000 shall be made available for the Multinational Force and Observer mission in the Sinai.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For an additional amount for ''International Military Education and Training'', $2,000,000, to remain available until September 30, 2010, for assistance for Iraq.

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for ''Foreign Military Financing Program'', $1,294,000,000, to remain available until September 30, 2010: Provided, That not less than $260,000,000 shall be made available for assistance for the Mexican Navy and shall be available notwithstanding section 7045(e) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009 (division H of Public Law 111–8): Provided further, That funds made available pursuant to the previous proviso shall be available notwithstanding section 36(b) of the Arms Export Control Act: Provided further, That of the funds appropriated under this heading, not less than $150,000,000 shall be made available for assistance for Jordan: Provided further, That of the funds appropriated under this heading, not less than $555,000,000, shall be available for grants only for Israel and shall be disbursed not later than October 30, 2009: Provided further, That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by the United States and Israel, be available for advanced weapons systems, of which $145,965,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: Provided further, That of the funds appropriated under this heading, not less than $260,000,000 shall be made available for grants only for Egypt, including for border security programs and activities in the Sinai: Provided further, That funds appropriated pursuant to the previous proviso estimated to be outlayed for Egypt shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York not later than October 30, 2009: Provided further, That up to $69,000,000 may be made available for assistance for Lebanon.

PAKISTAN COUNTERINSURGENCY CAPABILITY FUND

(INCLUDING TRANSFER OF FUNDS)

There is hereby established in the Treasury of the United States a special account to be known as the ''Pakistan Counterinsurgency Capability Fund''. For necessary expenses to carry out the provisions of chapter 8 of part I and chapters 2, 5, 6, and 8 of part II of the Foreign Assistance Act of 1961 and section 23 of the Arms Export Control Act for counterinsurgency activities in Pakistan, $700,000,000, which shall become available on September 30, 2009, and remain available until September 30, 2011: Provided, That such funds shall be available to the Secretary of State, with the concurrence of the Secretary of Defense, notwithstanding any other provision of law, for the purpose of providing assistance for Pakistan to build and maintain the counterinsurgency capability of Pakistani security forces (including the Frontier Corps), to include program management and the provision of equipment, supplies, services, training, and facility and infrastructure repair, renovation, and construction: Provided further, That such funds may be transferred by the Secretary of State to the Department of Defense or other Federal departments or agencies to support counterinsurgency operations and may be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred, or may be transferred pursuant to the authorities contained in the Foreign Assistance Act of 1961: Provided further, That the Secretary of State shall, not fewer than 15 days prior to making transfers from this appropriation, notify the Committees on Appropriations, and the congressional defense and foreign affairs committees, in writing of the details of any such transfer: Provided further, That the Secretary of State shall submit not later than 30 days after the end of each fiscal quarter to the Committees on Appropriations a report summarizing, on a project-by-project basis, the transfer of funds from this appropriation: Provided further, That upon determination by the Secretary of Defense or head of other Federal department or agency, with the concurrence of the Secretary of State, that all or part of the funds so transferred from this appropriation are not necessary for the purposes herein, such amounts may be transferred by the head of the relevant Federal department or agency back to this appropriation and shall be available for the same purposes and for the same time period as originally appropriated: Provided further, That any required notification or report may be submitted in classified or unclassified form.

GENERAL PROVISIONS—THIS TITLE

EXTENSION OF AUTHORITIES

SEC. 1101. Funds appropriated in this title may be obligated and expended notwithstanding section 10 of Public Law 91–672, section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

AFGHANISTAN

SEC. 1102. (a) IN GENERAL.—Funds appropriated in this title under the heading ''Economic Support Fund'' that are available for assistance for Afghanistan shall be made available, to the maximum extent practicable, in a manner that utilizes Afghan entities and emphasizes the participation of Afghan women and directly improves the security, economic and social well-being, and political status, of Afghan women and girls.

(b) ASSISTANCE FOR WOMEN AND GIRLS.—

(1) Funds appropriated in this title for assistance for Afghanistan shall comply with sections 7062 and 7063 of Public Law 111–8, and shall be made available to support programs that increase participation by women in the political process, including at the national, provincial, and sub-provincial levels, and in efforts to improve security in Afghanistan.

(2) Of the funds appropriated for assistance for Afghanistan in fiscal year 2009 under the headings ''Economic Support Fund'' and ''International Narcotics Control and Law Enforcement'', not less than $150,000,000 shall be made available to support programs that directly address the needs of Afghan women and girls, including for the Afghan Independent Human Rights Commission, the Afghan Ministry of Women's Affairs, and for women-led nongovernmental organizations.

(c) PROCUREMENT OF AFGHAN PRODUCTS AND SERVICES.—

(1) IN GENERAL.—Funds made available for assistance for Afghanistan in this title and in prior acts appropriating funds for Department of State, foreign operations, and related programs, may be used to conduct procurements and to award assistance instruments in which—

(A) competition is limited to products, services, or sources that are from Afghanistan;

(B) procedures other than competitive procedures are used to award a contract or assistance instrument to a particular source or sources from Afghanistan; or

(C) a preference is provided for products, services, or sources that are from Afghanistan.

(2) PRODUCTS, SERVICES, AND SOURCES FROM AFGHANISTAN.—For the purposes of this section:

(A) A product is from Afghanistan if it is mined, produced, or manufactured in Afghanistan.

(B) A service is from Afghanistan if it is performed in Afghanistan by citizens or permanent resident aliens of Afghanistan.

(C) A source is from Afghanistan if it—

(i) is located in Afghanistan; and

(ii) offers products or services that are from Afghanistan.

(3) REPORTING AND CONSULTING REQUIREMENT.—Not less than 180 days after enactment of this Act the Secretary of State shall submit a report to the Committees on Appropriations on

efforts undertaken by the Department of State and the United States Agency for International Development (USAID) to utilize this authority in order to enhance participation by Afghan entities in development activities in Afghanistan: Provided, That the Secretary of State and the Administrator of USAID shall consult with the Committees on Appropriations regarding the exercise of the authority of this subsection and prior to submitting the report required by this paragraph: Provided further, That the exercise of such authority in excess of $15,000,000 for any single contract or assistance instrument is subject to the regular notification procedures of the Committees on Appropriations.

(d) ANTICORRUPTION.—Ten percent of the funds appropriated under the heading ''International Narcotics Control and Law Enforcement'' that are available for assistance for the Government of Afghanistan shall be withheld from obligation until the Secretary of State reports to the Committees on Appropriations that the Government of Afghanistan is implementing a policy to promptly remove from office any government official who is credibly alleged to have engaged in narcotics trafficking, gross violations of human rights, or other major crimes.

(e) ACQUISITION OF PROPERTY.—Not more than $20,000,000 of the funds appropriated in this title should be made available to pay for the acquisition of property for diplomatic facilities in Afghanistan.

(f) UNITED NATIONS DEVELOPMENT PROGRAM.—Funds appropriated in this title may be made available for programs and activities of the United Nations Development Program (UNDP) in Afghanistan if the Secretary of State reports to the Committees on Appropriations that UNDP is fully cooperating with efforts of the United States Agency for International Development (USAID) to investigate expenditures by UNDP of USAID funds associated with the Quick Impact Program in Afghanistan.

(g) NATIONAL SOLIDARITY PROGRAM.—Of the funds appropriated in this title under the heading ''Economic Support Fund'' that are available for assistance for Afghanistan, not less than $70,000,000 shall be made available for the National Solidarity Program.

(h) AIRWINGS.—The uses and oversight of aircraft purchased or leased by the Department of State and the United States Agency for International Development by funds appropriated by this Act or prior Acts making appropriations for the Department of State, foreign operations and related programs shall be coordinated under the authority of the United States Chief of Mission in Afghanistan: Provided, That such aircraft may be used to transport Federal and non-Federal personnel supporting the Department of State and United States Agency for International Development programs and activities: Provided further, That official travel for other agencies for other purposes may be supported on a reimbursable basis, or without reimbursement when traveling on a space available basis.

ALLOCATIONS

SEC. 1103. (a) Funds appropriated in this title for the following accounts shall be made available for programs and countries in the amounts contained in the respective tables included in the joint statement accompanying this Act:

(1) ''Diplomatic and Consular Programs''.

(2) ''Embassy Security, Construction, and Maintenance''.

(3) ''Economic Support Fund''.

(4) ''International Narcotics Control and Law Enforcement''.

(b) For the purposes of implementing this section, and only with respect to the tables included in the joint statement accompanying this Act, the Secretary of State and the Administrator of the United States Agency for International Development, as appropriate, may propose deviations to the amounts referenced in subsection (a), subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

SPENDING PLAN AND NOTIFICATION PROCEDURES

SEC. 1104. (a) SPENDING PLAN.—Not later than 45 days after the enactment of this Act, the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall submit to the Committees on Appropriations a report detailing planned expenditures for funds appropriated in this title, except for funds appropriated under the headings ''International Disaster Assistance'' and ''Migration and Refugee Assistance''.

(b) NOTIFICATION.—Funds made available in this title shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

GLOBAL FINANCIAL CRISIS

SEC. 1105. (a) IN GENERAL.—Of the funds appropriated in this title under the heading ''Economic Support Fund'', not more than $255,601,000 may be made available for assistance for vulnerable populations in developing countries severely affected by the global financial crisis that—

(1) have a 2007 per capita Gross National Income of $3,705 or less;

(2) have seen a contraction in predicted growth rates of 2 percent or more since 2007; and

(3) demonstrate consistent improvement on the democracy and governance indicators as measured by the Millennium Challenge Corporation 2009 Country Scorebook.

(b) TRANSFER AUTHORITIES.—Of the funds appropriated in this title under the heading ''Economic Support Fund'' for developing countries impacted by the global financial crisis—

(1) up to $29,000,000 may be transferred and merged with ''Development Credit Authority'', for the cost of direct loans and loan guarantees notwithstanding the dollar limitations in such account on transfers to the account and the principal amount of loans made or guaranteed with respect to any single country or borrower: Provided, That such transferred funds may be available to subsidize total loan principal, any portion of which is to be guaranteed, of up to $2,000,000,000: Provided further, That the authority provided by the previous proviso is in addition to authority provided under the heading ''Development Credit Authority'' in Public Law 111–8: Provided further, That up to $1,500,000 may be for administrative expenses to carry out credit programs administered by the United States Agency for International Development; and

(2) up to $20,000,000 may be transferred to, and merged with, ''Overseas Private Investment Corporation Program Account'': Provided, That the authority provided in this paragraph is in addition to authority provided in section 7081 in Public Law 111–8.

(c) REPROGRAMMING AUTHORITY.—Notwithstanding any other provision of law, funds appropriated under the heading ''Millennium Challenge Corporation'' (MCC) in prior Acts making appropriations for the Department of State, foreign operations, and related programs may be made available for programs and activities to assist vulnerable populations severely affected by the global financial crisis in a country that has signed a compact with the MCC or has been designated by the MCC as a threshold country: Provided, That such a modification of a compact or threshold program by the MCC should be made, if practicable, prior to making available additional assistance for such purposes: Provided further, That the MCC shall consult with the Committees on Appropriations prior to exercising the authority of this subsection.

(d) REPORT.—The Secretary of State, in consultation with the Administrator of the United States Agency for International Development (USAID), shall submit a spending plan not later than 45 days after the date of enactment of this Act to the Committees on Appropriations, and prior to the initial obligation of funds appropriated for countries impacted by the global economic crisis, detailing the use of all funds on a country-by-country, and project-by-project basis: Provided, That for each project, the report shall include (1) the projected long-term economic impact of providing such funds; (2) the name of the entity or implementing organization to which funds are being provided; (3) whether funds will be provided as a direct cash transfer to a local or national government entity; and (4) an assessment of whether USAID has reviewed its existing programs in such country to determine reprogramming opportunities to increase assistance for vulnerable populations: Provided further, That funds transferred to the Development Credit Authority and the Overseas Private Investment Corporation are subject to the reporting requirements in section 1104.

IRAQ

SEC. 1106. (a) IN GENERAL.—Funds appropriated in this title that are available for assistance for Iraq shall be made available, to the maximum extent practicable, in a manner that utilizes Iraqi entities.

(b) MATCHING REQUIREMENT.—Funds appropriated in this title for assistance for Iraq shall be made available in accordance with the Department of State's April 9, 2009, ''Guidelines for Government of Iraq Financial Participation in United States Government-Funded Civilian Foreign Assistance Programs and Projects''.

(c) OTHER ASSISTANCE.—Of the funds appropriated in this title under the heading ''Economic Support Fund'', not less than $15,000,000 shall be made available for targeted development programs and activities in areas of conflict in Iraq, and the responsibility for policy decisions and justifications for the use of such funds shall be the responsibility of the United States Chief of Mission in Iraq.

PROHIBITION ON ASSISTANCE TO HAMAS

SEC. 1107. (a) None of the funds appropriated in this title may be made available for assistance to Hamas, or any entity effectively controlled by Hamas or any power-sharing government of which Hamas is a member.

(b) Notwithstanding the limitation of subsection (a), assistance may be provided to a power-sharing government only if the President certifies in writing and reports to the Committees on Appropriations that such government, including all of its ministers or such equivalent, has publicly accepted and is complying with the principles contained in section 620K(b)(1)(A) and (B) of the Foreign Assistance Act of 1961.

(c) The President may exercise the authority in section 620K(e) of the Foreign Assistance Act as added by the Palestinian Anti-Terrorism Act of 2006 (Public Law 109–446) with respect to this section.

(d) Whenever the certification pursuant to subsection (b) is exercised, the Secretary of State shall submit a report to the Committees on Appropriations within 120 days of the certification and every quarter thereafter on whether such government, including all of its ministers or such equivalent, are continuing to comply with the principles contained in section 620K(b)(1)(A) and (B) of the Foreign Assistance Act of 1961. The report shall also detail the amount, purposes and delivery mechanisms for any assistance provided pursuant to the abovementioned certification and a full accounting of any direct support of such government.

TERMS AND CONDITIONS

SEC. 1108. Unless otherwise provided for in this Act, funds appropriated or otherwise made available in this title shall be available under the authorities and conditions provided in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009 (division H of Public Law 111–8), except that sections 7070(e), with respect to funds made available for macroeconomic growth assistance for

Zimbabwe, and 7042(a) and (c) of such Act shall not apply to funds made available in this title.

MULTILATERAL DEVELOPMENT BANK REPLENISHMENTS

SEC. 1109. (a) INTERNATIONAL DEVELOPMENT ASSOCIATION.—The International Development Association Act (22 U.S.C. 284 et seq.) is amended by adding at the end thereof the following:

"SEC. 24. FIFTEENTH REPLENISHMENT.

''(a) The United States Governor of the International Development Association is authorized to contribute on behalf of the United States $3,705,000,000 to the fifteenth replenishment of the resources of the Association, subject to obtaining the necessary appropriations.

''(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $3,705,000,000 for payment by the Secretary of the Treasury.

"SEC. 25. MULTILATERAL DEBT RELIEF.

''(a) The Secretary of the Treasury is authorized to contribute, on behalf of the United States, not more than $356,000,000 to the International Development Association for the purpose of funding debt relief under the Multilateral Debt Relief Initiative in the period governed by the fifteenth replenishment of resources of the International Development Association, subject to obtaining the necessary appropriations and without prejudice to any funding arrangements in existence on the date of the enactment of this section.

''(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, not more than $356,000,000 for payment by the Secretary of the Treasury.

''(c) In this section, the term 'Multilateral Debt Relief Initiative' means the proposal set out in the G8 Finance Ministers' Communique entitled 'Conclusions on Development,' done at London, June 11, 2005, and reaffirmed by G8 Heads of State at the Gleneagles Summit on July 8, 2005.''.

(b) AFRICAN DEVELOPMENT FUND.—The African Development Fund Act (22 U.S.C. 290 et seq.) is amended by adding at the end thereof the following:

"SEC. 219. ELEVENTH REPLENISHMENT.

''(a) The United States Governor of the African Development Fund is authorized to contribute on behalf of the United States $468,165,000 to the eleventh replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

''(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $468,165,000 for payment by the Secretary of the Treasury.

"SEC. 220. MULTILATERAL DEBT RELIEF INITIATIVE.

''(a) The Secretary of the Treasury is authorized to contribute, on behalf of the United States, not more than $26,000,000 to the African Development Fund for the purpose of funding debt relief under the Multilateral Debt Relief Initiative in the period governed by the eleventh replenishment of resources of the African Development Fund, subject to obtaining the necessary appropriations and without prejudice to any funding arrangements in existence on the date of the enactment of this section.

''(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, not more than $26,000,000 for payment by the Secretary of the Treasury.''.

PROMOTION OF POLICY GOALS AT THE WORLD BANK GROUP

SEC. 1110. Title XVI of the International Financial Institutions Act (22 U.S.C. 262p et seq.) is amended by adding at the end thereof the following:

"SEC. 1626. REFORM OF THE 'DOING BUSINESS' REPORT OF THE WORLD BANK.

''(a) The Secretary of the Treasury shall instruct the United States Executive Directors at the International Bank for Reconstruction and Development, the International Development Association, and the International Finance Corporation of the following United States policy goals, and to use the voice and vote of the United States to actively promote and work to achieve these goals:

''(1) Suspension of the use of the 'Employing Workers' Indicator for the purpose of ranking or scoring country performance in the annual Doing Business Report of the World Bank until a set of indicators can be devised that fairly represent the value of internationally recognized workers' rights, including core labor standards, in creating a stable and favorable environment for attracting private investment. The indicators shall bring to bear the experiences of the member governments in dealing with the economic, social and political complexity of labor market issues. The indicators should be developed through collaborative discussions with and between the World Bank, the International Finance Corporation, the International Labor Organization, private companies, and labor unions.

''(2) Elimination of the 'Labor Tax and Social Contributions' Subindicator from the annual Doing Business Report of the World Bank.

''(3) Removal of the 'Employing Workers' Indicator as a 'guidepost' for calculating the annual Country Policy and Institutional Assessment score for each recipient country.

''(b) Within 60 days after the date of the enactment of this section, the Secretary of the Treasury shall provide an instruction to the United States Executive Directors referred to in subsection (a) to take appropriate actions with respect to implementing the policy goals of the United States set forth in subsection (a), and such instruction shall be posted on the website of the Department of the Treasury.

"SEC. 1627. ENHANCING THE TRANSPARENCY AND EFFECTIVENESS OF THE INSPECTION PANEL PROCESS OF THE WORLD BANK.

''(a) ENHANCING TRANSPARENCY IN IMPLEMENTATION OF MANAGEMENT ACTION PLANS.—The Secretary of the Treasury shall direct the United States Executive Directors at the World Bank to seek to ensure that World Bank Procedure 17.55, which establishes the operating procedures of Management with regard to the Inspection Panel, provides that Management prepare and make available to the public semi-annual progress reports describing implementation of Action Plans considered by the Board; allow and receive comments from Requesters and other Affected Parties for two months after the date of disclosure of the progress reports; post these comments on World Bank and Inspection Panel websites (after receiving permission from the requestors to post with or without attribution); submit the reports to the Board with any comments received; and make public the substance of any actions taken by the Board after Board consideration of the reports.

''(b) SAFEGUARDING THE INDEPENDENCE AND EFFECTIVENESS OF THE INSPECTION PANEL.—The Secretary of the Treasury shall direct the United States Executive Directors at the World Bank to continue to promote the independence and effectiveness of the Inspection Panel, including by seeking to ensure the availability of, and access by claimants to, the Inspection Panel for projects supported by World Bank resources.

''(c) EVALUATION OF COUNTRY SYSTEMS.—The Secretary of the Treasury shall direct the United States Executive Directors at the World Bank to request an evaluation by the Independent Evaluation Group on the use of country environmental and social safeguard systems to determine the degree to which, in practice, the use of such systems provides the same level of protection at the project level as do the policies and procedures of the World Bank.

''(d) WORLD BANK DEFINED.—In this section, the term 'World Bank' means the International Bank for Reconstruction and Development and the International Development Association.''.

CLIMATE CHANGE MITIGATION AND GREENHOUSE GAS ACCOUNTING

SEC. 1111. Title XIII of the International Financial Institutions Act (22 U.S.C. 262m et seq.) is amended by adding at the end thereof the following:

"SEC. 1308. CLIMATE CHANGE MITIGATION AND GREENHOUSE GAS ACCOUNTING.

''(a) USE OF GREENHOUSE GAS ACCOUNTING.—The Secretary of the Treasury shall seek to ensure that multilateral development banks (as defined in section 1701(c)(4) of this Act) adopt and implement greenhouse gas accounting in analyzing the benefits and costs of individual projects (excluding those with de minimus greenhouse gas emissions) for which funding is sought from the bank.

''(b) EXPANSION OF CLIMATE CHANGE MITIGATION ACTIVITIES.—The Secretary of the Treasury shall work to ensure that the multilateral development banks (as defined in section 1701(c)(4)) expand their activities supporting climate change mitigation by—

''(1) significantly expanding support for investments in energy efficiency and renewable energy, including zero carbon technologies;

''(2) reviewing all proposed infrastructure investments to ensure that all opportunities for integrating energy efficiency measures have been considered;

''(3) increasing the dialogue with the governments of developing countries regarding—

''(A) analysis and policy measures needed for low carbon emission economic development; and

''(B) reforms needed to promote private sector investments in energy efficiency and renewable energy, including zero carbon technologies; and

''(4) integrate low carbon emission economic development objectives into multilateral development bank country strategies.

''(c) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this section, and annually thereafter, the Secretary of the Treasury shall submit a report on the status of efforts to implement this section to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Financial Services and the Committee on Appropriations of the House of Representatives.''.

MULTILATERAL DEVELOPMENT BANK REFORM

SEC. 1112. (a) BUDGET DISCLOSURE.—The Secretary of the Treasury shall seek to ensure that the multilateral development banks make timely, public disclosure of their operating budgets including expenses for staff, consultants, travel and facilities.

(b) EVALUATION.—The Secretary of the Treasury shall seek to ensure that multilateral development banks rigorously evaluate the development impact of selected bank projects, programs, and financing operations, and emphasize use of random assignment in conducting such evaluations, where appropriate and to the extent feasible.

(c) EXTRACTIVE INDUSTRIES.—The Secretary of the Treasury shall direct the United States Executive Directors at the multilateral development banks to promote the endorsement of the Extractive Industry Transparency Initiative (EITI) by these institutions and the integration of the principles of the EITI into extractive industry-related projects that are funded by the multilateral development banks.

(d) REPORT.—Not later than September 30, 2009, the Secretary of the Treasury shall submit a report to the Committee on Appropriations and the Committee on Foreign Relations of the Senate, and the Committee on Appropriations and the Committee on Financial Services of the House of Representatives detailing actions taken by the multilateral development banks to achieve the objectives of this section.

(e) COORDINATION OF DEVELOPMENT POLICY.—The Secretary of the Treasury shall consult with the Secretary of State, the Administrator of the United States Agency for International Development, and other Federal agencies, as appropriate, in the formulation and implementation of United States policy relating to the development activities of the World Bank Group.

OVERSEAS COMPARABILITY PAY ADJUSTMENT

SEC. 1113. (a) Subject to such regulations prescribed by the Secretary of State, including with respect to phase-in schedule and treatment as basic pay, and notwithstanding any other provision of law, funds appropriated for this fiscal year in this or any other Act may be used to pay an eligible member of the Foreign Service as defined in subsection (b) of this section a locality-based comparability payment (stated as a percentage) up to the amount of the locality-based comparability payment (stated as a percentage) that would be payable to such member under section 5304 of title 5, United States Code if such member's official duty station were in the District of Columbia.

(b) A member of the Service shall be eligible for a payment under this section only if the member is designated class 1 or below for purposes of section 403 of the Foreign Service Act of 1980 (22 U.S.C. 3963) and the member's official duty station is not in the continental United States or in a non-foreign area, as defined in section 591.205 of title 5, Code of Federal Regulations.

(c) The amount of any locality-based comparability payment that is paid to a member of the Foreign Service under this section shall be subject to any limitations on pay applicable to locality-based comparability payments under section 5304 of title 5, United States Code.

REFUGEE PROGRAMS AND OVERSIGHT

(INCLUDING TRANSFER OF FUNDS)

SEC. 1114. (a) FUNDING.—Of the funds appropriated in this title under the heading ''Migration and Refugee Assistance'', up to $119,000,000 may be made available to the United Nations Relief and Works Agency for activities in the West Bank and Gaza.

(b) OVERSIGHT.—Of the funds made available in this title under the heading ''Economic Support Fund'' for assistance for the West Bank and Gaza, $1,000,000 shall be transferred to, and merged with, funds available under the heading ''Administration of Foreign Affairs, Office of Inspector General'' for oversight of programs in the West Bank, Gaza and surrounding region.

TECHNICAL AND OTHER PROVISIONS

SEC. 1115. (a) MODIFICATION.—Title III of division H of Public Law 111–8 is amended under the heading ''Economic Support Fund'' in the second proviso by striking ''up to $20,000,000'' and inserting ''not less than $20,000,000''.

(b) NOTIFICATION REQUIREMENT.—Funds appropriated by this Act that are transferred to the Department of State or the United States Agency for International Development from any other Federal department or agency shall be subject to the regular notification procedures of the Committees on Appropriations, notwithstanding any other provision of law.

(c) REEMPLOYMENT OF ANNUITANTS.—

(1) Section 824 of the Foreign Service Act of 1980 (22 U.S.C. 4064) is amended in subsection (g)(1) by inserting '', Pakistan,'' after ''Iraq'' each place it appears; and, in subsection (g)(2) by striking ''2009'' and inserting instead ''2010''.

(2) Section 61 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2733) is amended in subsection (a)(1) by adding '', Pakistan,'' after ''Iraq'' each place it appears; and, in subsection (a)(2) by striking ''2008'' and inserting instead ''2010''.

(3) Section 625 of the Foreign Assistance Act of 1961 (22 U.S.C. 2385) is amended in subsection (j)(1)(A) by adding '', Pakistan,'' after ''Iraq'' each place it appears; and, in subsection (j)(1)(B) by striking ''2008'' and inserting instead ''2010''.

(d) INCENTIVES FOR CRITICAL POSTS.—Notwithstanding sections 5753(a)(2)(A) and 5754(a)(2)(A) of title 5, United States Code, appropriations made available by this or any other Act may be used to pay recruitment, relocation, and retention bonuses under chapter 57 of title 5, United States Code to members of the Foreign Service, other than chiefs of mission and ambassadors at large, who are on official duty in Iraq, Afghanistan, or Pakistan. This authority shall terminate on October 1, 2010.

(e) Of the funds appropriated under the heading ''Foreign Military Financing Program'' in Public Law 110–161 that are available for assistance for Colombia, $500,000 may be transferred to, and merged with, funds appropriated under the heading ''International Narcotics Control and Law Enforcement'' to provide medical and rehabilitation assistance for members of Colombian security forces who have suffered severe injuries.

AFGHANISTAN AND PAKISTAN COMMITMENT AND CAPABILITIES REPORT

SEC. 1116. (a) REPORTING REQUIREMENT.—Not later than the date of submission of the fiscal year 2011 budget request, the President shall submit a report to the appropriate congressional committees, in classified form if necessary, assessing the extent to which the Afghan and Pakistani governments are demonstrating the necessary commitment, capability, conduct and unity of purpose to warrant the continuation of the President's policy announced on March 27, 2009, to include:

(1) the level of political consensus and unity of purpose across ethnic, tribal, religious and political party affiliations to confront the political and security challenges facing the region;

(2) the level of government corruption that undermines such political consensus and unity of purpose, and actions taken to eliminate it;

(3) the actions taken by respective security forces and appropriate government entities in developing a counterinsurgency capability, conducting counterinsurgency operations and establishing security and governance on the ground;

(4) the actions taken by respective intelligence agencies in cooperating with the United States on counterinsurgency and counterterrorism operations and in terminating policies and programs, and removing personnel, that provide material support to extremist networks that target United States troops or undermine United States objectives in the region;

(5) the ability of the Afghan and Pakistani governments to effectively control and govern the territory within their respective borders; and

(6) the ways in which United States Government assistance contributed, or failed to contribute, to achieving the actions outlined above.

(b) POLICY ASSESSMENT.—The President, on the basis of information gathered and coordinated by the National Security Council, shall advise the appropriate congressional committees on how such assessment requires, or does not require, changes to such policy.

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

UNITED STATES POLICY REPORT ON AFGHANISTAN AND PAKISTAN

SEC. 1117. (a) STATEMENT OF OBJECTIVES.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a clear statement of the objectives of United States policy with respect to Afghanistan and Pakistan, and the metrics to be utilized to assess progress toward achieving such objectives.

(b) REPORTING REQUIREMENT.—Not later than March 30, 2010 and every 180 days thereafter until September 30, 2011, the President, in consultation with Coalition partners as appropriate, shall submit to the appropriate congressional committees a report, in classified form if necessary, setting forth the following:

(1) a description and assessment of the progress of United States Government efforts, including those of the Department of Defense, the Department of State, the United States Agency for International Development, and the Department of Justice, in achieving the objectives for Afghanistan and Pakistan in subsection (a);

(2) any modification of the metrics in subsection (a) in light of circumstances in Afghanistan or Pakistan, together with a justification for such modification; and

(3) recommendations for the additional resources or authorities, if any, required to achieve such objectives for Afghanistan and Pakistan.

(c) CLASSIFICATION.—Any report submitted in classified form shall include an unclassified annex or summary of the matters contained in the report.

(d) DEFINITION.—For purposes of this section, ''appropriate congressional committees'' means—

(1) the Committees on Armed Services, Appropriations, Foreign Relations, Homeland Security and Governmental Affairs, and the Judiciary, and the Select Committee on Intelligence of the Senate; and

(2) the Committees on Armed Services, Appropriations, Foreign Affairs, Homeland Security, and the Judiciary, and the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE XII

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

In addition to funds made available under Public Law 111–8 and funds authorized under subsection 41742(a)(1) of title 49, United States Code, to carry out the essential air service program, to be derived from the Airport and Airway Trust Fund, $13,200,000, to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the amounts authorized under sections 48103 and 48112 of title 49, United States Code, $13,200,000 are permanently rescinded from amounts authorized for the fiscal year ending September 30, 2008.

GENERAL PROVISIONS—THIS TITLE

SEC. 1201. Section 1937(d) of Public Law 109–59 (119 Stat. 1144, 1510) is amended—

(1) in paragraph (1) by striking ''expenditures'' each place that it appears and inserting ''allocations''; and

(2) in paragraph (2) by striking ''expenditure'' and inserting ''allocation''.

SEC. 1202. A recipient and subrecipient of funds appropriated in Public Law 111–5 and apportioned pursuant to section 5311 and section 5336 (other than subsection (i)(1) and (j)) of title 49, United States Code, may use up to 10 percent of the amount apportioned for the operating costs of equipment and facilities for use in public transportation or for eligible activities under section 5311(f): Provided, That a grant obligating such funds on or after February 17, 2009, may be amended to allow a recipient and subrecipient to use the funds made available for operating assistance: Provided further, That applicable chapter 53 requirements apply, except for the Federal share which shall be, at the option of the recipient, up to 100 percent.

SEC. 1203. Public Law 110–329, under the heading ''Project-Based Rental Assistance'', is

amended by striking ''project-based vouchers'' and all that follows up to the period and inserting ''activities and assistance for the provision of tenant-based rental assistance, including related administrative expenses, as authorized under the United States Housing Act of 1937, as amended (42 U.S.C. 1437 et seq.), $80,000,000, to remain available until expended: Provided, That, such funds shall be made available within 60 days of the enactment of this Act: Provided further, That in carrying out the activities authorized under this heading, the Secretary shall waive section (o)(13)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)(B))''

SEC. 1204. Public Law 111–5 is amended by striking the second proviso under the heading ''HOME Investment Partnerships Program'' and inserting ''Provided further, That the housing credit agencies in each State shall distribute these funds competitively under this heading and pursuant to their qualified allocation plan (as defined in section 42(m) of the Internal Revenue Code of 1986) to owners of projects who have received or receive simultaneously an award of low-income housing tax credits under sections 42(h) and 1400N of the Internal Revenue Code of 1986:''.

SEC. 1205. Notwithstanding Section 1606, amounts made available under Division A of Public Law 111–5 for the ''Public Housing Capital Fund'' to carry out capital and management activities for public housing agencies as authorized under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) shall be subject to 42 U.S.C. 1437j; for the ''Community Development Fund'' to carry out the community development block grant program under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) shall be subject to 42 U.S.C. 5310 (or a waiver under 42 under 42 U.S.C. 5307(e)(2)); for ''Native American Housing Block Grants,'' as authorized under title I of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111 et seq.) (''NAHASDA'') shall be subject to 25 U.S.C. 4114(b); and for a housing entity eligible to receive funding under title VIII of NAHASDA (25 U.S.C. 4221 et seq.) shall be subject to 25 U.S.C. 411(b); and for a housing entity eligible to receive funding under title VIII of NAHASDA (25 U.S.C. 4221 et seq.) shall be subject to 25 U.S.C. 4225(b).

TITLE XIII—CONSUMER ASSISTANCE TO RECYCLE AND SAVE PROGRAM

SEC. 1301. SHORT TITLE.

This title may be cited as the ''Consumer Assistance to Recycle and Save Act of 2009''.

SEC. 1302. CONSUMER ASSISTANCE TO RECYCLE AND SAVE PROGRAM.

(a) ESTABLISHMENT.—There is established in the National Highway Traffic Safety Administration a voluntary program to be known as the ''Consumer Assistance to Recycle and Save Program'' through which the Secretary, in accordance with this section and the regulations promulgated under subsection (d), shall—

(1) authorize the issuance of an electronic voucher, subject to the specifications set forth in subsection (c), to offset the purchase price or lease price for a qualifying lease of a new fuel efficient automobile upon the surrender of an eligible trade-in vehicle to a dealer participating in the Program;

(2) register dealers for participation in the Program and require that all registered dealers—

(A) accept vouchers as provided in this section as partial payment or down payment for the purchase or qualifying lease of any new fuel efficient automobile offered for sale or lease by that dealer; and

(B) in accordance with subsection (c)(2), to transfer each eligible trade-in vehicle surrendered to the dealer under the Program to an entity for disposal;

(3) in consultation with the Secretary of the Treasury, make electronic payments to dealers for eligible transactions by such dealers, in accordance with the regulations issued under subsection (d); and

(4) in consultation with the Secretary of the Treasury and the Inspector General of the Department of Transportation, establish and provide for the enforcement of measures to prevent and penalize fraud under the program.

(b) QUALIFICATIONS FOR AND VALUE OF VOUCHERS.—A voucher issued under the Program shall have a value that may be applied to offset the purchase price or lease price for a qualifying lease of a new fuel efficient automobile as follows:

(1) $3,500 VALUE.—The voucher may be used to offset the purchase price or lease price of the new fuel efficient automobile by $3,500 if—

(A) the new fuel efficient automobile is a passenger automobile and the combined fuel economy value of such automobile is at least 4 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(B) the new fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 2 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(C) the new fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 15 miles per gallon and—

(i) the eligible trade-in vehicle is a category 2 truck and the combined fuel economy value of the new fuel efficient automobile is at least 1 mile per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

(ii) the eligible trade-in vehicle is a category 3 truck of model year 2001 or earlier; or

(D) the new fuel efficient automobile is a category 3 truck and the eligible trade-in vehicle is a category 3 truck of model year of 2001 or earlier and is of similar size or larger than the new fuel efficient automobile as determined in a manner prescribed by the Secretary.

(2) $4,500 VALUE.—The voucher may be used to offset the purchase price or lease price of the new fuel efficient automobile by $4,500 if—

(A) the new fuel efficient automobile is a passenger automobile and the combined fuel economy value of such automobile is at least 10 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(B) the new fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 5 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

(C) the new fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 15 miles per gallon and the combined fuel economy value of such truck is at least 2 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle and the eligible trade-in vehicle is a category 2 truck.

(c) PROGRAM SPECIFICATIONS.—

(1) LIMITATIONS.—

(A) GENERAL PERIOD OF ELIGIBILITY.—A voucher issued under the Program shall be used only in connection with the purchase or qualifying lease of new fuel efficient automobiles that occur between July 1, 2009 and November 1, 2009.

(B) NUMBER OF VOUCHERS PER PERSON AND PER TRADE-IN VEHICLE.—Not more than 1 voucher may be issued for a single person and not more than 1 voucher may be issued for the joint registered owners of a single eligible trade-in vehicle.

(C) NO COMBINATION OF VOUCHERS.—Only 1 voucher issued under the Program may be applied toward the purchase or qualifying lease of a single new fuel efficient automobile.

(D) CAP ON FUNDS FOR CATEGORY 3 TRUCKS.—Not more than 7.5 percent of the total funds made available for the Program shall be used for vouchers for the purchase or qualifying lease of category 3 trucks.

(E) COMBINATION WITH OTHER INCENTIVES PERMITTED.—The availability or use of a Federal, State, or local incentive or a State-issued voucher for the purchase or lease of a new fuel efficient automobile shall not limit the value or issuance of a voucher under the Program to any person otherwise eligible to receive such a voucher.

(F) NO ADDITIONAL FEES.—A dealer participating in the program may not charge a person purchasing or leasing a new fuel efficient automobile any additional fees associated with the use of a voucher under the Program.

(G) NUMBER AND AMOUNT.—The total number and value of vouchers issued under the Program may not exceed the amounts appropriated for such purpose.

(2) DISPOSITION OF ELIGIBLE TRADE-IN VEHICLES.—

(A) IN GENERAL.—For each eligible trade-in vehicle surrendered to a dealer under the Program, the dealer shall certify to the Secretary, in such manner as the Secretary shall prescribe by rule, that the dealer—

(i) has not and will not sell, lease, exchange, or otherwise dispose of the vehicle for use as an automobile in the United States or in any other country; and

(ii) will transfer the vehicle (including the engine block), in such manner as the Secretary prescribes, to an entity that will ensure that the vehicle—

(I) will be crushed or shredded within such period and in such manner as the Secretary prescribes; and

(II) has not been, and will not be, sold, leased, exchanged, or otherwise disposed of for use as an automobile in the United States or in any other country.

(B) SAVINGS PROVISION.—Nothing in subparagraph (A) may be construed to preclude a person who is responsible for ensuring that the vehicle is crushed or shredded from—

(i) selling any parts of the disposed vehicle other than the engine block and drive train (unless with respect to the drive train, the transmission, drive shaft, or rear end are sold as separate parts); or

(ii) retaining the proceeds from such sale.

(C) COORDINATION.—The Secretary shall coordinate with the Attorney General to ensure that the National Motor Vehicle Title Information System and other publicly accessible systems are appropriately updated on a timely basis to reflect the crushing or shredding of vehicles under this section and appropriate reclassification of the vehicles' titles. The commercial market shall also have electronic and commercial access to the vehicle identification numbers of vehicles that have been disposed of on a timely basis.

(d) REGULATIONS.—Notwithstanding the requirements of section 553 of title 5, United States Code, the Secretary shall promulgate final regulations to implement the Program not later than 30 days after the date of the enactment of this Act. Such regulations shall—

(1) provide for a means of registering dealers for participation in the Program;

(2) establish procedures for the reimbursement of dealers participating in the Program to be made through electronic transfer of funds for the amount of the vouchers as soon as practicable but no longer than 10 days after the submission of information supporting the eligible transaction, as deemed appropriate by the Secretary;

(3) require the dealer to use the voucher in addition to any other rebate or discount advertised by the dealer or offered by the manufacturer for the new fuel efficient automobile and prohibit the dealer from using the voucher to offset any such other rebate or discount;

(4) require dealers to disclose to the person trading in an eligible trade-in vehicle the best estimate of the scrappage value of such vehicle and to permit the dealer to retain $50 of any amounts paid to the dealer for scrappage of the automobile as payment for any administrative costs to the dealer associated with participation in the Program;

(5) consistent with subsection (c)(2), establish requirements and procedures for the disposal of eligible trade-in vehicles and provide such information as may be necessary to entities engaged in such disposal to ensure that such vehicles are disposed of in accordance with such requirements and procedures, including—

(A) requirements for the removal and appropriate disposition of refrigerants, antifreeze, lead products, mercury switches, and such other toxic or hazardous vehicle components prior to the crushing or shredding of an eligible trade-in vehicle, in accordance with rules established by the Secretary in consultation with the Administrator of the Environmental Protection Agency, and in accordance with other applicable Federal or State requirements;

(B) a mechanism for dealers to certify to the Secretary that each eligible trade-in vehicle will be transferred to an entity that will ensure that the vehicle is disposed of, in accordance with such requirements and procedures, and to submit the vehicle identification numbers of the vehicles disposed of and the new fuel efficient automobile purchased with each voucher;

(C) a mechanism for obtaining such other certifications as deemed necessary by the Secretary from entities engaged in vehicle disposal; and

(D) a list of entities to which dealers may transfer eligible trade-in vehicles for disposal; and

(6) provide for the enforcement of the penalties described in subsection (e).

(e) ANTI-FRAUD PROVISIONS.—

(1) VIOLATION.—It shall be unlawful for any person to violate any provision under this section or any regulations issued pursuant to subsection (d) (other than by making a clerical error).

(2) PENALTIES.—Any person who commits a violation described in paragraph (1) shall be liable to the United States Government for a civil penalty of not more than $15,000 for each violation. The Secretary shall have the authority to assess and compromise such penalties, and shall have the authority to require from any entity the records and inspections necessary to enforce this program. In determining the amount of the civil penalty, the severity of the violation and the intent and history of the person committing the violation shall be taken into account.

(f) INFORMATION TO CONSUMERS AND DEALERS.—Not later than 30 days after the date of the enactment of this Act, and promptly upon the update of any relevant information, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall make available on an Internet website and through other means determined by the Secretary information about the Program, including—

(1) how to determine if a vehicle is an eligible trade-in vehicle;

(2) how to participate in the Program, including how to determine participating dealers; and

(3) a comprehensive list, by make and model, of new fuel efficient automobiles meeting the requirements of the Program.

Once such information is available, the Secretary shall conduct a public awareness campaign to inform consumers about the Program and where to obtain additional information.

(g) RECORD KEEPING AND REPORT.—

(1) DATABASE.—The Secretary shall maintain a database of the vehicle identification numbers of all new fuel efficient vehicles purchased or leased and all eligible trade-in vehicles disposed of under the Program.

(2) REPORT ON EFFICACY OF THE PROGRAM.—Not later than 60 days after the termination date described in subsection (c)(1)(A), the Secretary shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing the efficacy of the Program, including—

(A) a description of Program results, including—

(i) the total number and amount of vouchers issued for purchase or lease of new fuel efficient automobiles by manufacturer (including aggregate information concerning the make, model, model year) and category of automobile;

(ii) aggregate information regarding the make, model, model year, and manufacturing location of vehicles traded in under the Program; and

(iii) the location of sale or lease;

(B) an estimate of the overall increase in fuel efficiency in terms of miles per gallon, total annual oil savings, and total annual greenhouse gas reductions, as a result of the Program; and

(C) an estimate of the overall economic and employment effects of the Program.

(h) EXCLUSION OF VOUCHERS FROM INCOME.—

(1) FOR PURPOSES OF ALL FEDERAL AND STATE PROGRAMS.—A voucher issued under this program or any payment made for such a voucher pursuant to subsection (a)(3) shall not be regarded as income and shall not be regarded as a resource for the month of receipt of the voucher and the following 12 months, for purposes of determining the eligibility of the recipient of the voucher (or the recipient's spouse or other family or household members) for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal or State program.

(2) FOR PURPOSES OF TAXATION.—A voucher issued under the program or any payment made for such a voucher pursuant to subsection (a)(3) shall not be considered as gross income of the purchaser of a vehicle for purposes of the Internal Revenue Code of 1986.

(i) DEFINITIONS.—As used in this section—

(1) the term ''passenger automobile'' means a passenger automobile, as defined in section 32901(a)(18) of title 49, United States Code, that has a combined fuel economy value of at least 22 miles per gallon;

(2) the term ''category 1 truck'' means a nonpassenger automobile, as defined in section 32901(a)(17) of title 49, United States Code, that has a combined fuel economy value of at least 18 miles per gallon, except that such term does not include a category 2 truck;

(3) the term ''category 2 truck'' means a large van or a large pickup, as categorized by the Secretary using the method used by the Environmental Protection Agency and described in the report entitled ''Light-Duty Automotive Technology and Fuel Economy Trends: 1975 through 2008'';

(4) the term ''category 3 truck'' means a work truck, as defined in section 32901(a)(19) of title 49, United States Code;

(5) the term ''combined fuel economy value'' means—

(A) with respect to a new fuel efficient automobile, the number, expressed in miles per gallon, centered below the words ''Combined Fuel Economy'' on the label required to be affixed or caused to be affixed on a new automobile pursuant to subpart D of part 600 of title 40, Code of Federal Regulations;

(B) with respect to an eligible trade-in vehicle, the equivalent of the number described in subparagraph (A), and posted under the words ''Estimated New EPA MPG'' and above the word ''Combined'' for vehicles of model year 1984 through 2007, or posted under the words ''New EPA MPG'' and above the word ''Combined'' for vehicles of model year 2008 or later on the fueleconomy.gov website of the Environmental Protection Agency for the make, model, and year of such vehicle; or

(C) with respect to an eligible trade-in vehicle manufactured between model years 1978 through 1985, the equivalent of the number described in subparagraph (A) as determined by the Secretary (and posted on the website of the National Highway Traffic Safety Administration) using data maintained by the Environmental Protection Agency for the make, model, and year of such vehicle.

(6) the term ''dealer'' means a person licensed by a State who engages in the sale of new automobiles to ultimate purchasers;

(7) the term ''eligible trade-in vehicle'' means an automobile or a work truck (as such terms are defined in section 32901(a) of title 49, United States Code) that, at the time it is presented for trade-in under this section—

(A) is in drivable condition;

(B) has been continuously insured consistent with the applicable State law and registered to the same owner for a period of not less than 1 year immediately prior to such trade-in;

(C) was manufactured less than 25 years before the date of the trade-in; and

(D) in the case of an automobile, has a combined fuel economy value of 18 miles per gallon or less;

(8) the term ''new fuel efficient automobile'' means an automobile described in paragraph (1), (2), (3), or (4)—

(A) the equitable or legal title of which has not been transferred to any person other than the ultimate purchaser;

(B) that carries a manufacturer's suggested retail price of $45,000 or less;

(C) that—

(i) in the case of passenger automobiles, category 1 trucks, or category 2 trucks, is certified to applicable standards under section 86.1811–04 of title 40, Code of Federal Regulations; or

(ii) in the case of category 3 trucks, is certified to the applicable vehicle or engine standards under section 86.1816–08, 86–007–11, or 86.008–10 of title 40, Code of Federal Regulations; and

(D) that has the combined fuel economy value of at least—

(i) 22 miles per gallon for a passenger automobile;

(ii) 18 miles per gallon for a category 1 truck; or

(iii) 15 miles per gallon for a category 2 truck;

(9) the term ''Program'' means the Consumer Assistance to Recycle and Save Program established by this section;

(10) the term ''qualifying lease'' means a lease of an automobile for a period of not less than 5 years;

(11) the term ''scrappage value'' means the amount received by the dealer for a vehicle upon transferring title of such vehicle to the person responsible for ensuring the dismantling and destroying of the vehicle;

(12) the term ''Secretary'' means the Secretary of Transportation acting through the National Highway Traffic Safety Administration;

(13) the term ''ultimate purchaser'' means, with respect to any new automobile, the first person who in good faith purchases such automobile for purposes other than resale;

(14) the term ''vehicle identification number'' means the 17 character number used by the automobile industry to identify individual automobiles; and

(15) the term ''voucher'' means an electronic transfer of funds to a dealer based on an eligible transaction under this program.

(j) APPROPRIATION.—There is hereby appropriated to the Secretary of Transportation $1,000,000,000, of which up to $50,000,000 is available for administration, to remain available until expended to carry out this section.

TITLE XIV

OTHER MATTERS

INTERNATIONAL ASSISTANCE PROGRAMS

INTERNATIONAL MONETARY PROGRAMS

UNITED STATES QUOTA, INTERNATIONAL MONETARY FUND

For an increase in the United States quota in the International Monetary Fund, the dollar equivalent of 4,973,100,000 Special Drawing Rights, to remain available until expended: Provided, That the cost of the amounts provided herein shall be determined as provided under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et. seq.): Provided further, That for purposes of section 502(5) of the Federal Credit Reform Act of 1990, the discount rate in section 502(5)(E) shall be adjusted for market risks: Provided further, That section 504(b) of the Federal

Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply.

LOANS TO INTERNATIONAL MONETARY FUND

For loans to the International Monetary Fund under section 17(a)(2) and (b)(2) of the Bretton Woods Agreements Act (Public Law 87–490, 22 U.S.C. 286e–2), as amended by this Act pursuant to the New Arrangements to Borrow, the dollar equivalent of up to 75,000,000,000 Special Drawing Rights, to remain available until expended, in addition to any amounts previously appropriated under section 17 of such Act: Provided, That if the United States agrees to an expansion of its credit arrangement in an amount less than the dollar equivalent of 75,000,000,000 Special Drawing Rights, any amount over the United States' agreement shall not be available until further appropriated: Provided further, That the cost of the amounts provided herein shall be determined as provided under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et. seq.): Provided further, That for purposes of section 502(5) of the Federal Credit Reform Act of 1990, the discount rate in section 502(5)(E) shall be adjusted for market risks: Provided further, That section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply.

GENERAL PROVISIONS—INTERNATIONAL ASSISTANCE PROGRAMS

SEC. 1401. Section 17 of the Bretton Woods Agreements Act (22 U.S.C. 286e–2) is amended—

(1) in subsection (a)—

(A) by inserting ''(1)'' before ''In order to''; and

(B) by adding at the end the following:

''(2) In order to carry out the purposes of a one-time decision of the Executive Directors of the International Monetary Fund (the Fund) to expand the resources of the New Arrangements to Borrow, established pursuant to the decision of January 27, 1997 referred to in paragraph (1) above, and to make other amendments to the New Arrangements to Borrow to achieve an expanded and more flexible New Arrangements to Borrow as contemplated by paragraph 17 of the G–20 Leaders' Statement of April 2, 2009 in London, the Secretary of the Treasury is authorized to instruct the United States Executive Director to consent to such amendments notwithstanding subsection (d) of this section, and to make loans, in an amount not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section and limited to such amounts as are provided in advance in appropriations Acts, except that prior to activation, the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to the Fund under article VII, section 1(i), of the Articles of Agreement of the Fund: Provided, That prior to instructing the United States Executive Director to provide consent to such amendments, the Secretary of the Treasury shall consult with the appropriate congressional committees on the amendments to be made to the New Arrangements to Borrow, including guidelines and criteria governing the use of its resources; the countries that have made commitments to contribute to the New Arrangements to Borrow and the amount of such commitments; and the steps taken by the United States to expand the number of countries so the United States share of the expanded New Arrangements to Borrow is representative of its share as of the date of enactment of this Act: Provided further, That any loan under the authority granted in this subsection shall be made with due regard to the present and prospective balance of payments and reserve position of the United States.''.

and

(2) in subsection (b)—

(A) by inserting ''(1)'' before ''For the purpose of'';

(B) by inserting ''subsection (a)(1) of'' after ''pursuant to''; and

(C) by adding at the end the following:

''(2) For the purpose of making loans to the International Monetary Fund pursuant to subsection (a)(2) of this section, there is hereby authorized to be appropriated not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section, except that prior to activation, the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to remain available until expended to meet calls by the Fund. Any payments made to the United States by the Fund as a repayment on account of the principal of a loan made under this section shall continue to be available for loans to the Fund.''.

SEC. 1402. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:

''SEC. 64. ACCEPTANCE OF AMENDMENTS TO THE ARTICLES OF AGREEMENT OF THE FUND.

''The United States Governor of the Fund may agree to and accept the amendments to the Articles of Agreement of the Fund as proposed in the resolutions numbered 63–2 and 63–3 of the Board of Governors of the Fund which were approved by such Board on April 28, 2008 and May 5, 2008, respectively.

''SEC. 65. QUOTA INCREASE.

''(a) IN GENERAL.—The United States Governor of the Fund may consent to an increase in the quota of the United States in the Fund equivalent to 4,973,100,000 Special Drawing Rights.

''(b) SUBJECT TO APPROPRIATIONS.—The authority provided by subsection (a) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

''SEC. 66. APPROVAL TO SELL A LIMITED AMOUNT OF THE FUND'S GOLD.

''(a) The Secretary of the Treasury is authorized to instruct the United States Executive Director of the Fund to vote to approve the sale of up to 12,965,649 ounces of the Fund's gold acquired since the second Amendment to the Fund's Articles of Agreement, only if such sales are consistent with the guidelines agreed to by the Executive Board of the Fund described in the Report of the Managing Director to the International Monetary and Financial Committee on a New Income and Expenditure Framework for the International Monetary Fund (April 9, 2008) to prevent disruption to the world gold market: Provided, That at least 30 days prior to any such vote, the Secretary shall consult with the appropriate congressional committees regarding the use of proceeds from the sale of such gold: Provided further, That the Secretary of the Treasury shall seek to ensure that:

''(1) the Fund will provide support to low-income countries that are eligible for the Poverty Reduction and Growth Facility or other low-income lending from the Fund by making available Fund resources of not less than $4,000,000,000;

''(2) such Fund resources referenced above will be used to leverage additional support by a significant multiple to provide loans with substantial concessionality and debt service payment relief and/or grants, as appropriate to a country's circumstances:

''(3) support provided through forgiveness of interest on concessional loans will be provided for not less than two years; and

''(4) the support provided to low-income countries occurs within six years, a substantial amount of which shall occur within the initial two years.

''(b) In addition to agreeing to and accepting the amendments referred to in section 64 of this Act relating to the use of proceeds from the sale of such gold, the United States Governor is authorized, consistent with subsection (a), to take such actions as may be necessary, including those referred to in section 5(e) of this Act, to also use such proceeds for the purpose of assisting low-income countries.

''SEC. 67. ACCEPTANCE OF AMENDMENT TO THE ARTICLES OF AGREEMENT OF THE FUND.

''The United States Governor of the Fund may agree to and accept the amendment to the Articles of Agreement of the Fund as proposed in the resolution numbered 54–4 of the Board of Governors of the Fund which was approved by such Board on October 22, 1997: Provided, That not more than one year after the acceptance of such amendments to the Fund's Articles of Agreement, the Secretary of the Treasury shall submit a report to the appropriate congressional committees analyzing Special Drawing Rights, to include a discussion of how those countries that significantly use or acquire Special Drawing Rights in accordance with Article XIX, Section 2(c), use or acquire them; the extent to which countries experiencing balance of payment difficulties exchange or use their Special Drawing Rights to acquire reserve currencies; and the manner in which those reserve currencies are acquired when utilizing Special Drawing Rights.''.

SEC. 1403. (a) Not later than 30 days after enactment of this Act, the Secretary of the Treasury, in consultation with the Executive Director of the World Bank and the Executive Board of the International Monetary Fund (the Fund), shall submit a report to the appropriate congressional committees detailing the steps taken to coordinate the activities of the World Bank and the Fund to avoid duplication of missions and programs, and steps taken by the Department of the Treasury and the Fund to increase the oversight and accountability of the Fund's activities.

(b) For the purposes of this title, ''appropriate congressional committees'' means the Committees on Appropriations, Banking, Housing, and Urban Affairs, and Foreign Relations of the Senate, and the Committees on Appropriations, Foreign Affairs, and Financial Services of the House of Representatives.

(c) In the next report to Congress on international economic and exchange rate policies, the Secretary of the Treasury shall: (1) report on ways in which the Fund's surveillance function under Article IV could be enhanced and made more effective in terms of avoiding currency manipulation; (2) report on the feasibility and usefulness of publishing the Fund's internal calculations of indicative exchange rates; and (3) provide recommendations on the steps that the Fund can take to promote global financial stability and conduct effective multilateral surveillance.

(d) The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to use the voice and vote of the United States to oppose any loan, project, agreement, memorandum, instrument, plan, or other program of the Fund to a Heavily Indebted Poor Country that imposes budget caps or restraints that do not allow the maintenance of or an increase in governmental spending on health care or education; and to promote government spending on health care, education, food aid, or other critical safety net programs in all of the Fund's activities with respect to Heavily Indebted Poor Countries.

SEC. 1404. Title XVI of the International Financial Institutions Act (22 U.S.C. 262p–262p–8) is amended by adding at the end the following: ''The Secretary of the Treasury shall instruct the United States Executive Director at each of the International Financial Institutions (as defined in section 1701(c)(2) of this Act) to use the voice and vote of the United States to oppose the provision of loans or other use of the funds of the respective institution to any country the

government of which the Secretary of State has determined, for purposes of section 6(j) of the Export Administration Act of 1979, section 620A of the Foreign Assistance Act of 1961, or section 40 of the Arms Export Control Act, to be a government that has repeatedly provided support for acts of international terrorism.''.

GENERAL PROVISIONS—THIS ACT

AVAILABILITY OF FUNDS

SEC. 14101. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 14102. (a) OVERSEAS DEPLOYMENTS DESIGNATIONS.—Except as provided in subsections (b) and (c), each amount in this Act is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a)(1) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(b) EMERGENCY DESIGNATIONS.—Each amount in titles I, II, IV, V, VII, VIII, IX, XII, XIII, XIV, and VI except for amounts under the heading ''Coast Guard Operating Expenses'' is designated as necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(c) Subsection (a) shall not apply to the amounts rescinded in section 309 for ''Operation and Maintenance, Marine Corps'', ''Operation and Maintenance, Air Force'', and ''Operation and Maintenance, Army Reserve''.

SEC. 14103. (a) None of the funds made available in this or any prior Act may be used to release an individual who is detained as of the date of enactment of this Act, at Naval Station, Guantanamo Bay, Cuba, into the continental United States, Alaska, Hawaii, or the District of Columbia.

(b) None of the funds made available in this or any prior Act may be used to transfer an individual who is detained as of the date of enactment of this Act, at Naval Station, Guantanamo Bay, Cuba, for the purpose of detention in the continental United States, Alaska, Hawaii, or the District of Columbia, except as provided in subsection (c).

(c) None of the funds made available in this or any prior Act may be used to transfer an individual who is detained, as of the date of enactment of this Act, at Naval Station, Guantanamo Bay, Cuba, into the continental United States, Alaska, Hawaii, or the District of Columbia, for the purposes of prosecuting such individual, or detaining such individual during legal proceedings, until 45 days after the plan detailed in subsection (d) is received.

(d) The President shall submit to the Congress, in classified form, a plan regarding the proposed disposition of any individual covered by subsection (c) who is detained as of the date of enactment of this Act. Such plan shall include, at a minimum, each of the following for each such individual:

(1) The findings of an analysis regarding any risk to the national security of the United States that is posed by the transfer of the individual.

(2) The costs associated with transferring the individual in question.

(3) The legal rationale and associated court demands for transfer.

(4) A plan for mitigation of any risk described in paragraph (1).

(5) A copy of a notification to the Governor of the State to which the individual will be transferred or to the Mayor of the District of Columbia if the individual will be transferred to the District of Columbia with a certification by the Attorney General of the United States in classified form at least 14 days prior to such transfer (together with supporting documentation and justification) that the individual poses little or no security risk to the United States.

(e) None of the funds made available in this or any prior Act may be used to transfer or release an individual detained at Naval Station, Guantanamo Bay, Cuba, as of the date of enactment of this Act, to the country of such individual's nationality or last habitual residence or to any other country other than the United States, unless the President submits to the Congress, in classified form 15 days prior to such transfer, the following information:

(1) The name of any individual to be transferred or released and the country to which such individual is to be transferred or released.

(2) An assessment of any risk to the national security of the United States or its citizens, including members of the Armed Services of the United States, that is posed by such transfer or release and the actions taken to mitigate such risk.

(3) The terms of any agreement with another country for acceptance of such individual, including the amount of any financial assistance related to such agreement.

(f) Prior to the termination of detention operations at Naval Station, Guantanamo Bay, Cuba, the President shall submit to the Congress a report in classified form describing the disposition or legal status of each individual detained at the facility as of the date of enactment of this Act.

This Act may be cited as the ''Supplemental Appropriations Act, 2009''.

And the Senate agree to the same.

DAVID R. OBEY,
JOHN P. MURTHA,
NITA M. LOWEY,
ROSA L. DELAURO,
CHET EDWARDS,
Managers on the Part of the House.

DANIEL K. INOUYE,
ROBERT C. BYRD,
PATRICK J. LEAHY,
TOM HARKIN,
BARBARA A. MIKULSKI,
HERB KOHL,
PATTY MURRAY,
BYRON L. DORGAN,
DIANNE FEINSTEIN,
RICHARD J. DURBIN,
TIM JOHNSON,
MARY L. LANDRIEU,
JACK REED,
FRANK R. LAUTENBERG,
E. BENJAMIN NELSON,
MARK PRYOR,
JON TESTER,
ARLEN SPECTER,
THAD COCHRAN,
KIT BOND,
MITCH MCCONNELL,
JUDD GREGG,
ROBERT F. BENNETT,
LAMAR ALEXANDER,
SUSAN COLLINS,
GEORGE V. VOINOVICH,
LISA MURKOWSKI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2346) making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment to the text deleted the entire House bill after the enacting clause and inserted the Senate bill, as amended. This conference agreement includes a revised bill.

Report language included by the House in the report accompanying H.R. 2346 (H. Rept. 111–105) and included by the Senate in the report accompanying S. 1054 (S. Rept. 111–20) should be complied with unless specifically addressed in this statement of the managers. The statement of the managers, while repeating some report language for emphasis, is not intended to negate the language referred to above unless expressly provided herein.

CYBER SECURITY

On May 29, 2009, the Administration released its cyberspace policy review. The conferees direct the Office of Management and Budget to submit to the Committees on Appropriations an unclassified report, no later than July 15, 2009, including a comprehensive explanation of the resources requested in the President's fiscal year 2010 budget related to cyber security, and any budget amendments that might be necessary due to the findings of the review. Classified annexes shall be provided as necessary to the individual Subcommittees regarding programs in their jurisdiction. Users of cyberspace have differing requirements, operating policies, philosophies, and cost tradeoffs. Therefore, the report shall include an explanation of how the requested resources will provide additional security for the distinct users of cyberspace including: federal, state, and local governments; the private sector, including critical infrastructure sectors; academia and education; and the general public. Upon transmittal of the report, the White House Cyber Security Policy Coordinator shall provide a classified briefing to the Committees on Appropriations.

TITLE I

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

Public Law 480 Title II Grants

The conference agreement provides $700,000,000 for Public Law 480 Title II grants as proposed by the Senate, instead of $500,000,000 as proposed by the House.

GENERAL PROVISIONS

Section 101. The conference agreement includes language making available funding for the Emergency Conservation Program.

Section 102. The conference agreement provides $71,270,000 to support $360,000,000 in direct farm ownership loans, $400,000,000 in direct farm operating loans and $50,201,000 in unsubsidized guaranteed operating loans.

TITLE II

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

The agreement includes $40,000,000 to provide grants under Trade Adjustment Assistance to communities and firms adversely impacted by trade. Within 60 days of the enactment of this Act, the Department is directed to submit a plan to the House and Senate Committees on Appropriations as to how this program will be implemented.

DEPARTMENT OF JUSTICE

DETENTION TRUSTEE

The agreement provides $60,000,000 for detention costs due to increased enforcement activities along the United States-Mexico border.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

The agreement provides $1,648,000 for the Criminal Division to supplement existing training and assistance provided to investigators, prosecutors, judges and other parts of the criminal justice systems of Iraq and Afghanistan.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

The agreement provides $5,000,000 for the United States Attorneys for ongoing litigation expenses associated with terrorism prosecutions of national importance. The agreement also provides $10,000,000 to prosecute mortgage fraud, financial fraud and market manipulation.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

The agreement provides $10,000,000 for the United States Marshals Service. Of the funds provided, $4,000,000 is for enhanced judicial security in districts along the southwest border, $5,000,000 is for the apprehension of criminals who have fled to Mexico, and $1,000,000 is to upgrade surveillance equipment used to monitor drug cartels and violent gang members.

NATIONAL SECURITY DIVISION

SALARIES AND EXPENSES

The agreement includes $1,389,000 for the National Security Division to continue to support terrorism prosecutions of national importance.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

The agreement provides $35,000,000 for the Federal Bureau of Investigation to investigate mortgage fraud, predatory lending, financial fraud and market manipulation.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

The agreement includes $20,000,000 for the Drug Enforcement Administration to expand its Sensitive Investigation Unit program in Mexico.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

The agreement includes $4,000,000 for the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) for training and technical assistance on improved explosives devices in Iraq. The agreement also includes $4,000,000 to upgrade technology for ballistics evidence sharing with Mexico and $6,000,000 for Project Gunrunner firearms trafficking activities along the southwest border.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

The agreement includes $5,038,000 for the Federal Prison System to monitor and translate the communications of incarcerated terrorists and disseminate relevant information to law enforcement agencies, as appropriate.

GENERAL PROVISION, THIS TITLE

(INCLUDING RECISSION)

The agreement includes the following general provision for this title:

Section 201 rescinds $3,000,000 appropriated to the Department's Office of Inspector General in Chapter 2 of Title I, P.L. 110–252, and reappropriates these funds to extend their availability.

TITLE III—DEFENSE MATTERS

DEPARTMENT OF DEFENSE

The conference agreement recommends $77,161,439,000 for the Department of Defense, instead of $81,299,888,000, as proposed by the House, and $73,023,506,000, as proposed by the Senate.

The following table provides details of the supplemental appropriations for the Department of Defense.

Chapter	Conference recommendation
Military Personnel	$18,726,150,000
Operation and Maintenance	32,547,114,000
Procurement	25,846,718,000
Research, Development, Test and Evaluation	833,499,000
Revolving and Management Funds	861,726,000
Other Department of Defense Programs	2,301,992,000

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 directions in the classified annex accompanying this Act.

REPORTING REQUIREMENTS

The conferees direct the Secretary of Defense 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 title. The Secretary shall submit updated reports 30 days after the end of each fiscal quarter until funds listed in this title are no longer available for obligation. The conferees direct that these reports shall include: a detailed accounting of obligations and expenditures of appropriations provided in this title 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 title. The conferees expect that, in order to meet unanticipated requirements, the Department of Defense may need to transfer funds within these appropriations accounts for purposes other than those specified in this report. The conferees direct the Department of Defense to follow normal prior approval reprogramming procedures should it be necessary to transfer funding between different appropriations accounts in this title. Additionally, the conferees direct that the Department continue to report incremental contingency operations costs for Operation Iraqi Freedom and Operation Enduring Freedom on a monthly basis in the Cost of War Execution report as required by Department of Defense Financial Management Regulation, chapter 23, volume 12. The conferees further direct the Department to continue to provide the Cost of War 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.

INTELLIGENCE, SURVEILLANCE AND RECONNAISSANCE

The conferees agree to redirect the funds requested for the Joint Rapid Acquisition Cell to high priority requirements identified by the Intelligence, Surveillance and Reconnaissance Task Force. The funds are distributed to appropriations accounts in the same manner as described in Senate Report 111–20.

MILITARY PERSONNEL

The conference agreement recommends $18,726,150,000 for military personnel.

The recommendations for each military personnel account are shown below:

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

	Budget Request	House	Senate	Conference
Military Personnel, Army				
BA-1: PAY AND ALLOWANCES OF OFFICERS				
BASIC PAY	**1,211,678**	**1,211,678**	**1,211,678**	**1,211,678**
RETIRED PAY ACCRUAL	**274,287**	**274,287**	**274,287**	**274,287**
BASIC ALLOWANCE FOR HOUSING	**302,627**	**302,627**	**302,627**	**302,627**
BASIC ALLOWANCE FOR SUBSISTENCE	**43,987**	**43,987**	**43,987**	**43,987**
INCENTIVE PAYS	**13,188**	**13,188**	**13,188**	**13,188**
SPECIAL PAYS	**263,375**	**247,000**	**275,769**	**275,679**
Hardship Duty Pay-Deferred from H.R. 2638		7,560	7,650	7,560
Hostile Fire Pay-Deferred from H.R. 2638		4,744	4,744	4,744
Retention Bonus-Excess to Requirement		-28,679		0
ALLOWANCES	**68,778**	**68,778**	**68,778**	**68,778**
SEPARATION PAY	**22,612**	**22,612**	**22,612**	**22,612**
SOCIAL SECURITY TAX	**92,693**	**92,693**	**92,693**	**92,693**
TOTAL BA-1	**2,293,225**	**2,276,850**	**2,305,619**	**2,305,529**
BA-2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL				
BASIC PAY	**2,478,940**	**2,478,940**	**2,478,940**	**2,478,940**
RETIRED PAY ACCRUAL	**552,332**	**552,332**	**552,332**	**552,332**
BASIC ALLOWANCE FOR HOUSING	**1,070,269**	**1,070,269**	**1,070,269**	**1,070,269**
INCENTIVE PAYS	**26,865**	**26,865**	**26,865**	**26,865**
SPECIAL PAYS	**1,213,374**	**928,784**	**1,199,651**	**1,134,651**
Hardship Duty Pay-Deferred from H.R. 2638		45,000	45,000	45,000
Hostile Fire Pay-Deferred from H.R. 2638		16,277	16,277	16,277
Enlistment Bonus-Excess to Requirement		-36,200		0
Enlistment Bonus-Anniversary Payments		-81,700		0
Enlistment Bonus-Residual Payments		-75,300		0
Reenlistment Bonus-Excess to Requirement		-152,667		0
Recruiting and Reenlistment Bonuses-Excess to Requirement			-75,000	-140,000
ALLOWANCES	**301,146**	**301,146**	**301,146**	**301,146**
SEPARATION PAY	**89,259**	**89,259**	**89,259**	**89,259**
SOCIAL SECURITY TAX	**189,823**	**189,823**	**189,823**	**189,823**
TOTAL BA-2	**5,922,008**	**5,637,418**	**5,908,285**	**5,843,285**
BA-4: SUBSISTENCE OF ENLISTED PERSONNEL				
BASIC ALLOWANCE FOR SUBSISTENCE	**520,905**	**520,905**	**520,905**	**520,905**
SUBSISTENCE-IN-KIND	**986,145**	**986,145**	**986,145**	**986,145**
TOTAL BA-4	**1,507,050**	**1,507,050**	**1,507,050**	**1,507,050**
BA-5: PERMANENT CHANGE OF STATION TRAVEL				
OPERATIONAL TRAVEL	**82,714**	**82,714**	**82,714**	**82,714**
ROTATIONAL TRAVEL	**68,271**	**68,271**	**68,271**	**68,271**
TOTAL BA-5	**150,985**	**150,985**	**150,985**	**150,985**
BA-6: OTHER MILITARY PERSONNEL COSTS				
INTEREST ON UNIFORMED SERVICE SAVINGS	**21,780**	**21,780**	**21,780**	**21,780**
DEATH GRATUITIES	**71,000**	**71,000**	**71,000**	**71,000**
UNEMPLOYMENT BENEFITS	**65,334**	**65,334**	**65,334**	**65,334**
RESERVE INCOME REPLACEMENT PROGRAM	**8,200**	**8,200**	**8,200**	**8,200**
SGLI EXTRA HAZARD PAYMENTS	**155,524**	**155,524**	**69,524**	**69,524**
Excess to Requirement			-86,000	-86,000
TOTAL BA-6	**321,838**	**321,838**	**235,838**	**235,838**

	Budget Request	House	Senate	Conference
UNDISTRIBUTED ADJUSTMENT		**1,030,500**	**1,348,000**	**1,708,000**
Year of Execution/Rate Changes		1,030,500	953,100	1,313,100
Funds Requested in Legislative Provisions			394,900	394,900
Total Military Personnel, Army	**10,195,106**	**10,924,641**	**11,455,777**	**11,750,687**
Military Personnel, Navy				
BA-1: PAY AND ALLOWANCES OF OFFICERS				
BASIC PAY	**263,985**	**263,985**	**263,985**	**263,985**
RETIRED PAY ACCRUAL	**67,109**	**67,109**	**67,109**	**67,109**
BASIC ALLOWANCE FOR HOUSING	**87,995**	**87,995**	**87,995**	**87,995**
BASIC ALLOWANCE FOR SUBSISTENCE	**8,896**	**8,896**	**8,896**	**8,896**
INCENTIVE PAYS	**1,110**	**1,110**	**1,110**	**1,110**
SPECIAL PAYS	**25,690**	**29,335**	**29,335**	**29,335**
Hardship Duty Pay-Deferred from H.R. 2638		1,463	1,463	1,463
Imminent Danger Pay-Deferred from H.R. 2638		2,182	2,182	2,182
ALLOWANCES	**15,251**	**15,251**	**15,251**	**15,251**
SEPARATION PAY	**6**	**6**	**6**	**6**
SOCIAL SECURITY TAX	**20,195**	**20,195**	**20,195**	**20,195**
TOTAL BA-1	**490,237**	**493,882**	**493,882**	**493,882**
BA-2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL				
BASIC PAY	**310,721**	**310,721**	**310,721**	**310,721**
RETIRED PAY ACCRUAL	**79,966**	**79,966**	**79,966**	**79,966**
BASIC ALLOWANCE FOR HOUSING	**158,257**	**158,257**	**158,257**	**158,257**
INCENTIVE PAYS	**539**	**539**	**539**	**539**
SPECIAL PAYS	**92,732**	**100,132**	**120,132**	**100,132**
Hardship Duty Pay-Deferred from H.R. 2638		7,400	7,400	7,400
Imminent Danger Pay-Deferred from H.R. 2638			20,000	0
ALLOWANCES	**29,212**	**29,212**	**29,212**	**29,212**
SEPARATION PAY	**3,578**	**3,578**	**3,578**	**3,578**
SOCIAL SECURITY TAX	**23,770**	**23,770**	**23,770**	**23,770**
TOTAL BA-2	**698,775**	**706,175**	**726,175**	**706,175**
BA-4: SUBSISTENCE OF ENLISTED PERSONNEL				
BASIC ALLOWANCE FOR SUBSISTENCE	**35,127**	**35,127**	**35,127**	**35,127**
SUBSISTENCE-IN-KIND	**12,766**	**12,766**	**12,766**	**12,766**
TOTAL BA-4	**47,893**	**47,893**	**47,893**	**47,893**
BA-5: PERMANENT CHANGE OF STATION TRAVEL				
ACCESSION TRAVEL	**4,855**	**4,855**	**4,855**	**4,855**
OPERATIONAL TRAVEL	**26,222**	**26,222**	**26,222**	**26,222**
ROTATIONAL TRAVEL	**28,096**	**28,096**	**28,096**	**28,096**
SEPARATION TRAVEL	**2,919**	**2,919**	**2,919**	**2,919**
TOTAL BA-5	**62,092**	**62,092**	**62,092**	**62,092**
BA-6: OTHER MILITARY PERSONNEL COSTS				
DEATH GRATUITIES	**2,600**	**2,600**	**2,600**	**2,600**
UNEMPLOYMENT BENEFITS	**18,244**	**18,244**	**18,244**	**18,244**
RESERVE INCOME REPLACEMENT PROGRAM	**50**	**50**	**50**	**50**
SGLI EXTRA HAZARD PAYMENTS	**34,891**	**34,891**	**11,991**	**11,989**
Excess to Requirement			-22,900	-22,902
TOTAL BA-6	**55,785**	**55,785**	**32,885**	**32,883**

	Budget Request	House	Senate	Conference
UNDISTRIBUTED ADJUSTMENT		**351,000**	**202,300**	**284,363**
Year of Execution/Rate Changes		351,000	202,300	284,363
Total Military Personnel, Navy	**1,354,782**	**1,716,827**	**1,565,227**	**1,627,288**
Military Personnel, Marine Corps				
BA-1: PAY AND ALLOWANCES OF OFFICERS				
BASIC PAY	**97,044**	**97,044**	**97,044**	**97,044**
RETIRED PAY ACCRUAL	**22,989**	**22,989**	**22,989**	**22,989**
BASIC ALLOWANCE FOR HOUSING	**32,756**	**32,756**	**32,756**	**32,756**
BASIC ALLOWANCE FOR SUBSISTENCE	**3,530**	**3,530**	**3,530**	**3,530**
SPECIAL PAYS	**49,906**	**50,175**	**50,175**	**50,175**
Hardship Duty Pay-Deferred from H.R. 2638		269	269	269
ALLOWANCES	**8,445**	**8,445**	**8,445**	**8,445**
SOCIAL SECURITY TAX	**7,423**	**7,423**	**7,423**	**7,423**
TOTAL BA-1	**222,093**	**222,362**	**222,362**	**222,362**
BA-2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL				
BASIC PAY	**482,113**	**482,113**	**482,113**	**482,113**
RETIRED PAY ACCRUAL	**121,588**	**121,588**	**121,588**	**121,588**
BASIC ALLOWANCE FOR HOUSING	**123,749**	**123,749**	**123,749**	**123,749**
SPECIAL PAYS	**210,228**	**212,830**	**212,830**	**212,830**
Hardship Duty Pay-Deferred from H.R. 2638		2,602	2,602	2,602
ALLOWANCES	**46,656**	**46,656**	**46,656**	**46,656**
SEPARATION PAY	**2,953**	**2,953**	**2,953**	**2,953**
SOCIAL SECURITY TAX	**36,758**	**36,758**	**36,758**	**36,758**
TOTAL BA-2	**1,024,045**	**1,026,647**	**1,026,647**	**1,026,647**
BA-4: SUBSISTENCE OF ENLISTED PERSONNEL				
BASIC ALLOWANCE FOR SUBSISTENCE	**54,056**	**54,056**	**54,056**	**54,056**
TOTAL BA-4	**54,056**	**54,056**	**54,056**	**54,056**
BA-5: PERMANENT CHANGE OF STATION TRAVEL				
ACCESSION TRAVEL	**4,010**	**4,010**	**4,010**	**4,010**
OPERATIONAL TRAVEL	**51,356**	**51,356**	**51,356**	**51,356**
TOTAL BA-5	**55,366**	**55,366**	**55,366**	**55,366**
BA-6: OTHER MILITARY PERSONNEL COSTS				
DEATH GRATUITIES	**3,400**	**3,400**	**3,400**	**3,400**
UNEMPLOYMENT BENEFITS	**24,500**	**24,500**	**24,500**	**24,500**
SGLI EXTRA HAZARD PAYMENTS	**36,519**	**36,519**	**25,619**	**10,422**
Excess to Requirement			-10,900	-26,097
TOTAL BA-6	**64,419**	**64,419**	**53,519**	**38,322**
UNDISTRIBUTED ADJUSTMENT		**155,000**	**52,403**	**128,194**
Year of Execution/Rate Changes		155,000	52,403	128,194
Total Military Personnel, Marine Corps	**1,419,979**	**1,577,850**	**1,464,353**	**1,524,947**

	Budget Request	House	Senate	Conference
Military Personnel, Air Force				
BA-1: PAY AND ALLOWANCES OF OFFICERS				
BASIC PAY	190,254	190,254	190,254	190,254
RETIRED PAY ACCRUAL	40,144	40,144	40,144	40,144
BASIC ALLOWANCE FOR HOUSING	59,781	59,781	59,781	59,781
BASIC ALLOWANCE FOR SUBSISTENCE	7,514	7,514	7,514	7,514
SPECIAL PAYS	15,425	23,636	23,636	23,636
Hostile Fire Pay-Deferred from H.R. 2638		6,670	6,670	6,670
Hardship Duty Pay-Deferred from H.R. 2638		1,541	1,541	1,541
ALLOWANCES	6,831	6,831	6,831	6,831
SOCIAL SECURITY TAX	14,555	14,555	14,555	14,555
TOTAL BA-1	334,504	342,715	342,715	342,715
BA-2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL				
BASIC PAY	480,101	480,101	480,101	480,101
RETIRED PAY ACCRUAL	101,302	101,302	101,302	101,302
BASIC ALLOWANCE FOR HOUSING	175,182	175,182	175,182	175,182
SPECIAL PAYS	53,841	93,284	93,284	93,284
Hostile Fire Pay-Deferred from H.R. 2638		31,855	31,855	31,855
Hardship Duty Pay-Deferred from H.R. 2638		7,588	7,588	7,588
ALLOWANCES	22,457	22,457	22,457	22,457
SEPARATION PAY	4,818	4,818	4,818	4,818
SOCIAL SECURITY TAX	36,728	36,728	36,728	36,728
TOTAL BA-2	874,429	913,872	913,872	913,872
BA-4: SUBSISTENCE OF ENLISTED PERSONNEL				
BASIC ALLOWANCE FOR SUBSISTENCE	39,590	39,590	39,590	39,590
SUBSISTENCE-IN-KIND	69,864	69,864	69,864	69,864
TOTAL BA-4	109,454	109,454	109,454	109,454
BA-5: PERMANENT CHANGE OF STATION TRAVEL				
OPERATIONAL TRAVEL	5,790	5,790	5,790	5,790
TOTAL BA-5	5,790	5,790	5,790	5,790
BA-6: OTHER MILITARY PERSONNEL COSTS				
UNEMPLOYMENT BENEFITS	16,573	16,573	16,573	16,573
SGLI EXTRA HAZARD PAYMENTS	49,804	49,804	13,204	11,811
Excess to Requirement			-36,600	-37,993
TOTAL BA-6	66,377	66,377	29,777	28,384
UNDISTRIBUTED ADJUSTMENT		345,000	67,565	100,525
Year of Execution/Rate Changes		345,000	67,565	100,525
Total Military Personnel, Air Force	1,390,554	1,783,208	1,469,173	1,500,740
Reserve Personnel, Army				
BA-1: UNIT AND INDIVIDUAL TRAINING				
PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)	116,901	116,901	116,901	116,901
SPECIAL TRAINING	167,254	167,254	164,254	164,254
Ready Response Reserve Units-Excess to Requirement			-3,000	-3,000
TOTAL BA-1	284,155	284,155	281,155	281,155
UNDISTRIBUTED ADJUSTMENT		97,000	106,000	137,000
Year of Execution/Rate Changes		97,000	39,000	70,000
Funds Requested in Legislative Provisions			67,000	67,000

	Budget Request	House	Senate	Conference
Total Reserve Personnel, Army	**284,155**	**381,155**	**387,155**	**418,155**
Reserve Personnel, Navy				
BA-1: UNIT AND INDIVIDUAL TRAINING				
SCHOOL TRAINING	**5,166**	**5,166**	**5,166**	**5,166**
SPECIAL TRAINING	**33,805**	**33,805**	**33,805**	**33,805**
ADMINISTRATION AND SUPPORT	**507**	**507**	**507**	**507**
TOTAL BA-1	**39,478**	**39,478**	**39,478**	**39,478**
Total Reserve Personnel, Navy	**39,478**	**39,478**	**39,478**	**39,478**
Reserve Personnel, Marine Corps				
BA-1: UNIT AND INDIVIDUAL TRAINING				
PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)	**8,662**	**8,662**	**8,662**	**8,662**
SPECIAL TRAINING	**20,517**	**20,517**	**20,517**	**20,517**
TOTAL BA-1	**29,179**	**29,179**	**29,179**	**29,179**
Total Reserve Personnel, Marine Corps	**29,179**	**29,179**	**29,179**	**29,179**
Reserve Personnel, Air Force				
BA-1: UNIT AND INDIVIDUAL TRAINING				
SPECIAL TRAINING	**16,943**	**16,943**	**14,943**	**14,943**
Underexecution of End Strength			-2,000	-2,000
TOTAL BA-1	**16,943**	**16,943**	**14,943**	**14,943**
Total Reserve Personnel, Air Force	**16,943**	**16,943**	**14,943**	**14,943**
National Guard Personnel, Army				
BA-1: UNIT AND INDIVIDUAL TRAINING				
PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)	**538,586**	**487,726**	**538,586**	**538,586**
Grow the Army		-50,860		0
SPECIAL TRAINING	**330,947**	**330,947**	**330,947**	**330,947**
ADMINISTRATION AND SUPPORT	**569,800**	**116,600**	**504,800**	**481,200**
Enlistment Bonus-Excess to Requirement		-88,600		0
Enlistment Bonus-Anniversary Payments		-123,900		0
Enlistment Bonus-Residual Payments		-240,700		0
Recruiting and Reenlistment Bonuses-Excess to Requirement			-65,000	-88,600
TOTAL BA-1	**1,439,333**	**935,273**	**1,374,333**	**1,350,733**
UNDISTRIBUTED ADJUSTMENT		**438,000**	**168,000**	**425,000**
Year of Execution/Rate Changes		438,000	159,000	416,000
Funds Requested in Legislative Provisions			9,000	9,000
Total National Guard Personnel, Army	**1,439,333**	**1,373,273**	**1,542,333**	**1,775,733**

	Budget Request	House	Senate	Conference
National Guard Personnel, Air Force				
BA-1: UNIT AND INDIVIDUAL TRAINING				
SPECIAL TRAINING	**17,860**	**17,860**	**17,860**	**17,860**
TOTAL BA-1	**17,860**	**17,860**	**17,860**	**17,860**
UNDISTRIBUTED ADJUSTMENT		**83,500**	**29,000**	**27,140**
Year of Execution/Rate Changes		83,500	29,000	27,140
Total National Guard Personnel, Air Force	**17,860**	**101,360**	**46,860**	**45,000**

MILITARY PERSONNEL SHORTFALL

The conference agreement includes an additional $2,810,222,000 for identified shortfalls resulting from unbudgeted additional end strength, which were a result of better-than-projected recruiting and retention levels; recent rate increases in Basic Pay, Retired Pay Accrual, Basic Allowance for Housing, and Basic Allowance for Subsistence; and unanticipated programmatic adjustments such as increased clothing and education costs.

OPERATION AND MAINTENANCE

The conference agreement recommends $32,547,114,000 for operation and maintenance.

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

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

O-1		Budget Request	House	Senate	Conference
Operation and Maintenance, Army					
135	**ADDITIONAL ACTIVITIES**	**13,024,499**	**12,740,961**	**12,838,899**	**12,681,761**
	Hire Iraqis to Perform Contract Services		-111,121		-111,121
	Hire Iraqis to Perform LOGCAP		-138,296		-138,296
	Subsistence Costs		-34,121	-25,000	-34,121
	Rapid Fielding Initiative Overstatement			-184,200	-184,200
	FY09 Stryker Requirements Based on SBCT to OEF			103,600	150,000
	Contractor Price Growth			-30,000	0
	Army Asymmetric Warfare Office--Baseline Budget Requirement			-50,000	-25,000
136	**COMMANDER'S EMERGENCY RESPONSE PROGRAM**	**453,000**	**453,000**	**453,000**	**453,000**
	TOTAL BA-1	**13,477,499**	**13,193,961**	**13,291,899**	**13,134,761**
421	**SERVICEWIDE TRANSPORTATION**	**50,197**	**246,282**	**50,197**	**50,197**
	Increased Cost of Route to Afghanistan		196,085		
9999	**OTHER PROGRAMS**	**591,705**	**584,460**	**591,705**	**584,460**
	Classified Adjustment		-7,245		-7,245
	TOTAL BA-4	**641,902**	**830,742**	**641,902**	**634,657**
Total Operation and Maintenance, Army		**14,119,401**	**14,024,703**	**13,933,801**	**13,769,418**
Operation and Maintenance, Navy					
1A1A	**MISSION AND OTHER FLIGHT OPERATIONS**	**574,597**	**562,720**	**577,097**	**562,720**
	Hire Iraqis to Perform Contract Services		-1,277		-1,277
	S-3 ISR Detachment		-10,600		-10,600
	Counter Piracy Expenses			2,500	0
1A2A	**FLEET AIR TRAINING**	**9,194**	**9,194**	**9,194**	**9,194**
1A3A	**AVIATION TECHNICAL DATA & ENGINEERING SERVICE**	**3,744**	**3,744**	**3,744**	**3,744**
1A4A	**AIR OPERATIONS AND SAFETY SUPPORT**	**6,992**	**6,992**	**6,992**	**6,992**
1A4N	**AIR SYSTEMS SUPPORT**	**16,722**	**14,157**	**16,722**	**14,157**
	Hire Iraqis to Perform Contract Services		-2,565		-2,565
1A5A	**AIRCRAFT DEPOT MAINTENANCE**	**53,317**	**53,317**	**53,317**	**53,317**
1B1B	**MISSION AND OTHER SHIP OPERATIONS**	**224,172**	**224,172**	**253,872**	**244,172**
	Counter Piracy Expenses			29,700	20,000
1B2B	**SHIP OPERATIONS SUPPORT & TRAINING**	**13,140**	**13,140**	**13,140**	**13,140**
1B4B	**SHIP DEPOT MAINTENANCE**	**155,123**	**155,123**	**345,123**	**320,123**
	Increase for Ship Repairs Due to Recent Incidents				165,000
	USS Port Royal Ship Repair and Related Damages			67,000	0
	USS Hartford Ship Repair			121,000	0
	USS New Orleans Ship Repair			2,000	0
1B5B	**SHIP DEPOT OPERATIONS SUPPORT**	**125**	**125**	**125**	**125**
1C1C	**COMBAT COMMUNICATIONS**	**7,196**	**7,196**	**7,196**	**7,196**
1C2C	**ELECTRONIC WARFARE**	**57,523**	**57,523**	**57,523**	**57,523**
1C4C	**WARFARE TACTICS**	**5,661**	**5,661**	**5,661**	**5,661**
1C5C	**OPERATIONAL METEOROLOGY AND OCEANOGRAPHY**	**5,953**	**5,953**	**5,953**	**5,953**
1C6C	**COMBAT SUPPORT FORCES**	**638,709**	**633,769**	**628,809**	**620,769**
	Hire Iraqis to Perform Contract Services		-4,940		-4,940
	Fleet Forces Command-NAVEUR-Africa Partership Station--Baseline Budget Requirement			-13,000	-13,000
	Counter Piracy Expenses			3,100	0
1C7C	**EQUIPMENT MAINTENANCE**	**108**	**108**	**108**	**108**
1CCH	**COMBATANT COMMANDERS CORE OPERATIONS**	**1,278**	**1,278**	**0**	**0**
	Technical Adjustment			-1,278	-1,278
1CCM	**COMBATANT COMMANDERS DIRECT MISSION**	**13,751**	**13,751**	**4,476**	**4,476**
	Technical Adjustment			-9,275	-9,275
1D3D	**IN-SERVICE WEAPONS SYSTEMS SUPPORT**	**23,995**	**23,995**	**23,995**	**23,995**
1D4D	**WEAPONS MAINTENANCE**	**64,188**	**64,188**	**64,188**	**64,188**

O-1		Budget Request	House	Senate	Conference
1D7D	OTHER WEAPON SYSTEMS SUPPORT	7,738	7,738	7,738	7,738
BSM1	SUSTAINMENT, RESTORATION AND MODERNIZATION	12,887	12,887	12,887	12,887
BSS1	BASE OPERATING SUPPORT	148,102	148,102	148,102	148,102
	TOTAL BA-1	2,044,215	2,024,833	2,245,962	2,186,280
2A1F	SHIP PREPOSITIONING AND SURGE	9,618	9,618	9,618	9,618
2C1H	FLEET HOSPITAL PROGRAM	1,514	1,514	1,514	1,514
2C3H	COAST GUARD SUPPORT	131,547	131,547	2,044	2,044
	Transfer to Department of Homeland Security			-129,503	-129,503
	TOTAL BA-2	142,679	142,679	13,176	13,176
3B1K	SPECIALIZED SKILL TRAINING	36,384	36,384	11,384	11,384
	Unjustifed Growth			-25,000	-25,000
	TOTAL BA-3	36,384	36,384	11,384	11,384
4A1M	ADMINISTRATION	1,257	1,257	1,257	1,257
4A2M	EXTERNAL RELATIONS	162	162	162	162
4A4M	MILITARY MANPOWER AND PERSONNEL	2,220	2,220	2,220	2,220
4A5M	OTHER PERSONNEL SUPPORT	851	851	851	851
4A6M	SERVICEWIDE COMMUNICATIONS	7,546	7,546	7,546	7,546
4B1N	SERVICEWIDE TRANSPORTATION	73,762	73,762	73,762	73,762
4B3N	ACQUISITION AND PROGRAM MANAGEMENT	11,213	11,213	11,213	11,213
4B7N	SPACE AND ELECTRONIC WARFARE SYSTEMS	1,057	1,057	1,057	1,057
4C1P	NAVAL INVESTIGATIVE SERVICE	25,768	22,993	25,768	22,993
	CNO Nodal Analysis		-2,775		-2,775
9999	OTHER PROGRAMS	43,002	43,002	43,002	43,002
	TOTAL BA-4	166,838	164,063	166,838	164,063
	Historical Execution Adjustment			-100,000	-100,000
	Total Operation and Maintenance, Navy	2,390,116	2,367,959	2,337,360	2,274,903
	Operation and Maintenance, Marine Corps				
1A1A	OPERATIONAL FORCES	731,707	712,646	678,707	672,771
	Hire Iraqis to Perform Contract Services		-3,995		-3,995
	Intelligence Equipment Readiness		-1,941		-1,941
	Angel Fire		-13,125	-13,000	-13,000
	Unjustified Growth in Pre-Deployment Training			-40,000	-40,000
1A2A	FIELD LOGISTICS	120,593	120,593	120,593	120,593
1A3A	DEPOT MAINTENANCE	108,600	108,600	108,600	108,600
1B1B	MARITIME PREPOSITIONING	5,942	5,942	5,942	5,942
	TOTAL BA-1	966,842	947,781	913,842	907,906
3B4D	TRAINING SUPPORT	60,000	60,000	60,000	60,000
	TOTAL BA-3	60,000	60,000	60,000	60,000
4A3G	SERVICEWIDE TRANSPORTATION	64,000	76,300	64,000	66,460
	Increased Cost of Route to Afghanistan		12,300		2,460
	TOTAL BA-4	64,000	76,300	64,000	66,460
	Total Operation and Maintenance, Marine Corps	1,090,842	1,084,081	1,037,842	1,034,366
	Operation and Maintenance, Air Force				
011A	PRIMARY COMBAT FORCES	1,091,423	1,091,423	1,001,423	1,001,423
	Reduce Operating Support Growth To Be Consistent With Flying Hour Growth			-90,000	-90,000
011B	PRIMARY COMBAT WEAPONS	35,340	35,340	35,340	35,340

O-1		Budget Request	House	Senate	Conference
011C	COMBAT ENHANCEMENT FORCES	442,514	442,514	460,214	460,214
	Afghan ISR Infrastructure			2,200	2,200
	LEC PED (Project Liberty)			15,500	15,500
011D	AIR OPERATIONS TRAINING	41,984	41,984	41,984	41,984
011E	COMBAT COMMUNICATIONS	567,503	551,503	517,503	501,503
	Air Force DCGS		-16,000		-16,000
	Reduce Historical End of Year Spending			-50,000	-50,000
011M	DEPOT MAINTENANCE	457,219	457,219	457,219	457,219
011Z	BASE SUPPORT	633,119	583,091	583,119	583,119
	Unjustified Growth		-50,028		
	Reduce Historical End of Year Spending			-50,000	-50,000
012A	GLOBAL C3I AND EARLY WARNING	116,948	116,948	116,948	116,948
012B	NAVIGATION/WEATHER SUPPORT	9,784	9,784	9,784	9,784
012C	OTHER COMBAT OPS SPT PROGRAMS	252,481	252,481	252,481	252,481
012E	MANAGEMENT/OPERATIONAL HQ	133,718	130,149	83,718	105,149
	Hire Iraqis to Perform Contract Services		-3,569		-3,569
	Operation Earnest Voice			-50,000	-25,000
012F	TACTICAL INTEL AND OTHER SPECIAL ACTIVITIES	881	881	881	881
013A	LAUNCH FACILITIES	5,700	5,700	5,700	5,700
013B	LAUNCH VEHICLESs	40	40	40	40
013C	SPACE CONTROL SYSTEMS	4,407	4,407	4,407	4,407
013D	SATELILITE SYSTEMS	1,602	1,602	1,602	1,602
013E	OTHER SPACE OPERATIONS	24,502	24,502	24,502	24,502
013R	SUSTAINMENT, RESTORATION AND MODERNIZATION	4,989	4,989	4,989	4,989
013Z	BASE SUPPORT	14,509	14,509	14,509	14,509
	TOTAL BA-1	3,838,663	3,769,066	3,616,363	3,621,794
021A	AIRLIFT OPERATIONS	1,514,035	1,514,035	1,514,035	1,514,035
021B	AIRLIFT OPERATIONS C3I	37,755	37,755	37,755	37,755
021D	MOBILIZATION PREPAREDNESS	115,681	115,681	115,681	115,681
021M	DEPOT MAINTENANCE	65,329	65,329	65,329	65,329
021R	SUSTAINMENT, RESTORATION AND MODERNIZATION	1,164	1,164	1,164	1,164
021Z	BASE SUPPORT	5,504	5,504	5,504	5,504
	TOTAL BA-2	1,739,468	1,739,468	1,739,468	1,739,468
031B	RECRUIT TRAINING	2,748	2,748	2,748	2,748
031Z	BASE SUPPORT	683	683	683	683
032A	SPECIALIZED SKILL TRAINING	1,036	1,036	1,036	1,036
032B	FLIGHT TRAINING	141	141	141	141
032C	PROFESSIONAL DEVELOPMENT EDUCATION	1,155	1,155	1,155	1,155
032D	TRAINING SUPPORT	660	660	660	660
032R	SUSTAINMENT, RESTORATION AND MODERNIZATION	106	106	106	106
032Z	BASE SUPPORT	5,164	5,164	5,164	5,164
	TOTAL BA-3	11,693	11,693	11,693	11,693
041A	LOGISTICS OPERATIONS	226,025	226,025	226,025	226,025
041B	TECHNICAL SUPPORT ACTIVITIES	18,958	18,958	18,958	18,958
041C	SERVICEWIDE TRANSPORTATION	133,824	150,655	133,824	137,190
	Increased Cost of Route to Afghanistan		16,831		3,366
041Z	BASE SUPPORT	23,100	23,100	23,100	23,100
042A	ADMINISTRATION	4,532	4,532	4,532	4,532
042B	SERVICEWIDE COMMUNICATIONS	51,912	51,912	51,912	51,912
042C	PERSONNEL PROGRAM	775	775	775	775
042G	OTHER SERVICEWIDE ACTIVITIES	75,482	75,482	4,876	4,876
	Removal of One Time FY 08 Cost for GeoBase Maintenance Contract			-70,606	-70,606

O-1		Budget Request	House	Senate	Conference
042H	OTHER PERSONNEL SUPPORT	2,630	2,630	2,630	2,630
042Z	BASE SUPPORT	7,890	7,890	7,890	7,890
043A	Security Programs	152,283	127,747	143,283	122,747
	Classified Adjustment		-24,536	-9,000	-29,536
044A	INTERNATIONAL SUPPORT	6,796	6,796	6,796	6,796
	TOTAL BA-4	704,207	696,502	624,601	607,431
Total Operation and Maintenance, Air Force		6,294,031	6,216,729	5,992,125	5,980,386
Operation and Maintenance, Defense-Wide					
	JOINT CHIEFS OF STAFF	25,000	10,000	12,500	12,500
	Combatant Commander's Initiative Fund Program		-15,000	-12,500	-12,500
	SPECIAL OPERATIONS COMMAND	1,448,401	1,448,401	1,408,401	1,448,401
	Strategic Communications			-40,000	0
	DEFENSE MEDIA ACTIVITY	11,185	11,185	11,185	11,185
	DEFENSE CONTRACT AUDITING AGENCY	7,600	7,600	7,600	7,600
	DEFENSE CONTRACT MANAGEMENT AGENCY	15,000	15,000	15,000	15,000
	DEFENSE HUMAN RESOURCES ACTIVITY	7,300	7,300	7,300	7,300
	DEFENSE INFORMATION SYSTEMS AGENCY	118,705	118,705	118,705	118,705
	DEFENSE LEGAL SERVICES AGENCY	82,626	58,600	82,626	82,626
	Office of Military Commissions		-24,026		0
	DEPARTMENT OF DEFENSE EDUCATION AGENCY	682,740	807,840	682,740	776,740
	Family Advocacy Program		125,100		94,000
	DEFENSE SECURITY COOPERATION AGENCY	1,430,000	1,040,000	1,200,000	1,150,000
	Coalition Support Funds	1,050,000	-240,000		-50,000
	Lift and Sustain	350,000	-150,000	-200,000	-200,000
	Manas Air Base Radar -- Transfer to Department of State	30,000		-30,000	-30,000
	DEFENSE THREAT REDUCTION AGENCY	15,200	15,200	6,700	6,700
	OFFICE OF THE SECRETARY OF DEFENSE	96,472	96,472	96,472	96,472
	NATIONAL GUARD BORDER SECURITY	350,000	350,000	0	0
	OTHER PROGRAMS	1,377,254	1,367,398	1,366,554	1,368,467
	Classified Adjustment		-9,856	-10,700	-8,787
Total Operation and Maintenance, Defense-Wide		5,667,483	5,353,701	5,065,783	5,101,696
Operation and Maintenance, Army Reserve					
113	ECHELONS ABOVE BRIGADE	7,831	7,831	7,831	7,831
121	FORCE READINESS OPERATIONS SUPPORT	27,200	13,500	27,200	27,200
	Tuition Assistance		-13,700		0
122	LAND FORCES SYSTEMS READINESS	29,600	29,600	29,600	29,600
131	BASE OPERATIONS SUPPORT	46,286	46,286	41,286	41,286
	Other Personnel Support Projected Execution			-5,000	-5,000
	TOTAL BA-1	110,917	97,217	105,917	105,917
434	RECRUITING AND ADVERTISING	4,100	4,100	4,100	4,100
	TOTAL BA-4	4,100	4,100	4,100	4,100
Total Operation and Maintenance, Army Reserve		115,017	101,317	110,017	110,017
Operation and Maintenance, Navy Reserve					
1A1A	MISSION AND OTHER FLIGHT OPERATIONS	9,769	9,769	9,769	9,769
1A3A	INTERMEDIATE MAINTENANCE	21	21	21	21
1A5A	AIRCRAFT DEPOT MAINTENANCE	2,329	2,329	2,329	2,329
1B1B	MISSION AND OTHER SHIP OPERATIONS	1,251		1,251	1,251
	Unjustified Fuel Cost Increase		-1,251		0

O-1		Budget Request	House	Senate	Conference
1C1C	COMBAT COMMUNICATIONS	1,460	1,460	1,460	1,460
1C6C	COMBAT SUPPORT FORCES	8,830	8,830	8,830	8,830
BSSR	BASE OPERATING SUPPORT	1,909	1,909	1,909	1,909
	TOTAL BA-1	25,569	24,318	25,569	25,569
Total Operation and Maintenance, Navy Reserve		25,569	24,318	25,569	25,569
Operation and Maintenance, Marine Corps Reserve					
1A1A	OPERATING FORCES	30,775	30,775	30,775	30,775
	TOTAL BA-1	30,775	30,775	30,775	30,775
Total Operation and Maintenance, Marine Corps Reserve		30,775	30,775	30,775	30,775
Operation and Maintenance, Air Force Reserve					
011A	PRIMARY COMBAT FORCES	7,424	7,424	20,424	20,424
	Flying Hours			20,000	20,000
	Operating Support Projected Execution			-7,000	-7,000
011G	MISSION SUPPORT OPERATIONS	27,175	27,175	14,175	14,175
	Individual Medical Readiness Projected Execution			-13,000	-13,000
	TOTAL BA-1	34,599	34,599	34,599	34,599
Total Operation and Maintenance, Air Force Reserve		34,599	34,599	34,599	34,599
Operation and Maintenance, Army National Guard					
111	MANEUVER UNITS	48,172	48,172	48,172	48,172
116	AVIATION ASSETS	58,367	58,367	58,367	58,367
131	BASE OPERATIONS SUPPORT	22,000	22,000	22,000	22,000
135	ADDITIONAL ACTIVITIES	74,860	49,907	74,860	49,907
	Unjustified Growth for Acceleration of Grow the Army		-24,953		-24,953
	TOTAL BA-1	203,399	178,446	203,399	178,446
Total Operation and Maintenance, Army National Guard		203,399	178,446	203,399	178,446
Iraq Freedom Fund					
	Transportation of Fallen Heroes -- transfer to Transportation Working Capital Fund	15,000	15,000		0
	Disposition of Guantanamo Detainees -- unspecified increase	50,000			0
	Joint Rapid Acquisition Cell -- transfer to Procurement and RDT&E accounts	350,000	350,000		0
Total Iraq Freedom Fund		415,000	365,000	0	0
Iraq Security Forces Fund		0	0	1,000,000	0
Afghanistan Security Forces Fund					
	Infrastructure	437,035		437,035	437,035
	Equipment and Transportation	1,248,484		1,248,484	1,248,484
	Training and Operations	130,634		130,634	130,634
	Sustainment	765,698		765,698	765,698
	Subtotal, Afghan National Army	2,581,851		2,581,851	2,581,851
	Infrastructure	253,575		253,575	253,575
	Equipment and Transportation	35,225		35,225	35,225

O-1	Budget Request	House	Senate	Conference
Training and Operations	312,067		312,067	312,067
Sustainment	381,045		381,045	381,045
Subtotal, Afghan National Police	981,912		981,912	981,912
Detainee Operations -- Training and Operations	2,116		2,116	2,116
COIN Activities	41,060		41,060	41,060
Subtotal, Related Activities	43,176		43,176	43,176
Total Afghanistan Security Forces Fund	3,606,939	3,606,939	3,606,939	3,606,939
Pakistan Counterinsurgency Fund				
Equipment and Transportation	322,377		322,377	322,377
Training and Operations	12,150		12,150	12,150
Subtotal, Defense Security Forces	334,527		334,527	334,527
Infrastructure	12,000		12,000	12,000
Equipment and Transportation	43,373		43,373	43,373
Training and Operations	8,100		8,100	8,100
Subtotal, Frontier Corps	63,473		63,473	63,473
Humanitarian Assistance	2,000		2,000	2,000
Total Pakistan Counterinsurgency Fund	400,000	400,000	400,000	400,000

PAKISTAN COUNTERINSURGENCY FUND

The conferees support the Administration's efforts to increase the counterinsurgency capability of the Pakistani security forces. The conferees believe that international military operations against al-Qaeda and the Taliban in Afghanistan cannot succeed without a strong counterinsurgency effort by security forces in Pakistan. However, the conferees are concerned about providing the Department of Defense with the authority and funding to conduct an assistance program which would traditionally fall under the purview of the Department of State. The conferees believe the Pakistan Counterinsurgency Fund (PCF) should reside within the Department of State but understand the near term needs of the Pakistan Security Forces and the lack of capacity within the State Department warrant an exception to traditional lines of authority. Therefore, the conferees support the Administration's request for this fund under the Department of Defense, but direct the Secretary of Defense and the Secretary of State to jointly develop a plan for transitioning the PCF from the Department of Defense to the Department of State by fiscal year 2010 and to be fully executed by the Department of State by fiscal year 2011. The plan should identify the resources, personnel, and authorities required to facilitate the transfer to the State Department, as well as goals and objectives for the successful completion of this program. In addition, the Secretary of Defense is directed to follow the same reporting requirements that Congress has required for the Afghanistan and Iraq Security Forces Funds as outlined in section 317 of this Act.

The conferees believe civil-military operations are a key component of successful counterinsurgency efforts. However, the conferees do not support the creation of a Commander's Emergency Response Program (CERP) or similar program for Pakistan, and have neither authorized nor provided funding for such a program anywhere in this Act. The conference agreement has made available $2,000,000 from the Pakistan Counterinsurgency Fund to provide humanitarian assistance to the people of Pakistan only as part of civil-military training exercises carried out with Pakistan's security forces through this fund. Finally, the conferees direct the Department to work with the Government of Pakistan to establish a funding mechanism beginning in fiscal year 2010, using Pakistani funds, which can be applied to humanitarian needs in support of counterinsurgency operations conducted inside of Pakistan.

FAMILY ADVOCACY PROGRAM

The conference agreement provides $708,842,000 for family advocacy programs to provide counseling and family assistance including child psychologists, and other intervention efforts which is $94,000,000 above the request in order to enhance the activities of the Family Advocacy Program and provide for children and families managing the difficult challenges of military service. The funding is provided for, but not limited to, child care, counseling, spouse certification and licensure, and Joint Family Assistance Centers. Funding is also available for the Warrior Family Community Partnership to provide assistance to all soldiers and families.

COMBAT UNIFORMS

The conferees understand that soldiers deployed to Afghanistan have serious concerns about the current combat uniform which they indicate provides ineffective camouflage given the environment in Afghanistan. Accordingly, the conferees direct that within funding made available the Department of Defense take immediate action to provide combat uniforms to personnel deployed to Afghanistan with a camouflage pattern that is suited to the environment of Afghanistan. The conferees further direct the Secretary of the Army to provide a report on the program plans and budgetary adjustments necessary to provide appropriate uniforms to deployed and deploying troops to Afghanistan. The report shall be submitted to the congressional defense committees by the end of fiscal year 2009.

PROCUREMENT

The conference agreement recommends $25,846,718,000 for procurement.

The recommendations for each procurement account are shown below:

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

		Budget Request	House	Senate	Conference
Aircraft Procurement, Army					
6	**UH-60 BLACKHAWK (MYP)**	**81,400**	**81,400**	**48,840**	**48,840**
	Battle losses only (2 UH-60, 1HH-60)			-32,560	-32,560
8	**CH-47 HELICOPTER (MYP)**	**120,000**	**210,000**	**60,000**	**150,000**
	Provides funding for one additional CH-47 aircraft for expanded aviation requirements in Overseas Contingency Operations		90,000		30,000
	Battle losses only			-60,000	0
18	**GUARDRAIL MODS (MIP)**	**39,700**	**39,700**	**39,700**	**39,700**
20	**AH-64 MODS**	**354,360**	**787,060**	**0**	**787,060**
	Provides funding for conversion of one Army National Guard AH-64A battalion from A to D model aircraft		432,700		432,700
	No battle losses			-354,360	0
22	**CH-47 CARGO HELICOPTER MODS (MYP)**	**9,760**	**9,760**	**9,760**	**9,760**
32	**ASE INFRARED COUNTERMEASURES**	**132,800**	**132,800**	**132,800**	**132,800**
35	**AIRCREW INTEGRATED SYSTEMS**	**3,584**	**3,584**	**3,584**	**3,584**
36	**AIR TRAFFIC CONTROL**	**21,000**	**21,000**	**0**	**0**
	Transfer for execution			-21,000	-21,000
37	**AIRBORNE COMMUNICATIONS**			**21,000**	**21,000**
	Transfer for execution			21,000	21,000
Total Aircraft Procurement, Army		**762,604**	**1,285,304**	**315,684**	**1,192,744**
Missile Procurement, Army					
5	**HELLFIRE SYSTEM SUMMARY**	**228,430**	**208,430**	**207,430**	**207,430**
	Aligns production scheduling and capacity		-20,000		0
	Unit cost adjustment to procure 2,603 missiles			-21,000	-21,000
6	**JAVELIN (AAWS-M) SYSTEM SUMMARY**	**119,327**	**99,327**	**117,327**	**109,327**
	Aligns production scheduling and capacity		-20,000		-8,000
	Unit cost adjustment to procure 924 AURs			-2,000	-2,000
7	**TOW 2 SYSTEM SUMMARY**	**349,684**	**299,684**	**342,584**	**317,584**
	Aligns production scheduling and capacity		-50,000		-25,000
	Revised program management administration costs			-7,100	-7,100
8	**GUIDED MLRS ROCKET (GMLRS)**	**69,700**	**69,700**	**69,700**	**69,700**
Total Missile Procurement, Army		**767,141**	**677,141**	**737,041**	**704,041**
Procurement of Weapons and Tracked Combat Vehicles (W&TCV), Army					
4	**STRYKER VEHICLE**	**112,734**	**451,134**	**112,734**	**312,734**
	Provides funding to procure additional Stryker vehicles		338,400		200,000
10	**BRADLEY PROGRAM (MOD)**	**541,000**	**784,600**	**541,000**	**784,600**
	Provides funding in support of Bradley Fighting Vehicle Reset requirements		243,600		243,600
12	**IMPROVED RECOVERY VEHICLE (M88A2 HERCULES)**	**236,800**	**236,800**	**0**	**121,800**
	Excess to combat loss/reset requirement			-236,800	-115,000
15	**M1 ABRAMS TANK (MOD)**	**378,000**	**346,500**	**378,000**	**362,500**
	Aligns funding with Overseas Contingency Operations Requirements		-31,500		-15,500
16	**ABRAMS UPGRADE PROGRAM**	**100,000**	**100,000**	**100,000**	**100,000**
20	**M240 MEDIUM MACHINE GUN (7.62MM)**	**22,837**	**22,837**	**22,837**	**22,837**
31	**COMMON REMOTELY OPERATED WEAPONS STATION (CROWS)**	**279,500**	**279,500**	**279,500**	**279,500**

		Budget Request	House	Senate	Conference
20	M240 MEDIUM MACHINE GUN (7.62MM)	22,837	22,837	22,837	22,837
31	COMMON REMOTELY OPERATED WEAPONS STATION (CROWS)	279,500	279,500	279,500	279,500
36	M2 50 CAL MACHINE GUN MODS	12,500	12,500	0	0
	Funded ahead of need			-12,500	-12,500
	Total Procurement of W&TCV, Army	1,683,371	2,233,871	1,434,071	1,983,971
	Procurement of Ammunition, Army				
1	CTG, 5.56MM, ALL TYPES	3,000	3,000	3,000	3,000
2	CTG, 7.62MM, ALL TYPES	8,600	8,600	8,600	8,600
4	CTG, .50 CAL, ALL TYPES	56,600	56,600	56,600	56,600
6	CTG, 30MM, ALL TYPES	10,000	10,000	10,000	10,000
7	CTG, 40MM, ALL TYPES	25,750	25,750	25,750	25,750
16	PROJ 155MM EXTENDED RANGE XM982	35,000	35,000	35,000	35,000
17	MODULAR ARTILLERY CHARGE SYSTEM (MACS), ALL TYPES	20,000	20,000	20,000	20,000
23	SHOULDER LAUNCHED MUNITIONS, ALL TYPES	20,000	20,000	20,000	20,000
24	ROCKET, HYDRA 70, ALL TYPES	26,000	26,000	26,000	26,000
25	DEMOLITION MUNITIONS, ALL TYPES	525	525	525	525
26	GRENADES, ALL TYPES	10,000	10,000	10,000	10,000
28	SIMULATORS, ALL TYPES	3,000	3,000	3,000	3,000
30	NON-LETHAL AMMUNITION, ALL TYPES	1,800	1,800	1,800	1,800
39	CONVENTIONAL MUNITIONS DEMILITARIZATION, ALL TYPES	9,800	9,800	9,800	9,800
	Total Procurement of Ammunition, Army	230,075	230,075	230,075	230,075
	Other Procurement, Army				
1	TACTICAL TRAILERS/DOLLY SETS	107,426	107,426	107,426	107,426
2	SEMITRAILERS, FLATBED:	60,686	60,686	0	0
	Excess to combat loss/reset requirement			-60,686	-60,686
4	HI MOB MULTI-PURP WHLD VEH (HMMWV)	842,456	842,456	680,056	680,056
	Excess to combat loss/reset requirement			-162,400	-162,400
5	FAMILY OF MEDIUM TACTICAL VEH (FMTV)	574,121	574,121	188,100	188,100
	Excess to combat loss/reset requirement			-386,021	-386,021
7	FAMILY OF HEAVY TACTICAL VEHICLES (FHTV)	967,221	967,221	967,221	967,221
9	ARMORED SECURITY VEHICLES (ASV)	137,583	137,583	137,583	137,583
10	MINE PROTECTION VEHICLE FAMILY	704,956	704,956	704,956	704,956
12	TRUCK, TRACTOR, LINE HAUL, M915/M916	5,548	5,548	5,548	5,548
13	HVY EXPANDED MOBILE TACTICAL TRUCK EXT SERVICE PROGRAM	351,296	351,296	351,296	351,296
14	HMMWV RECAPITALIZATION PROGRAM	119,781	119,781	119,781	119,781
15	MODIFICATION OF IN SERVICE EQUIPMENT	441,000	441,000	321,000	441,000
	Reduce funding for ASV retrofit enhancement			-120,000	0
18	HEAVY ARMORED SEDAN	1,700	1,700	1,700	1,700
19	PASSENGER CARRYING VEHICLES	8,350	8,350	8,350	8,350
20	NONTACTICAL VEHICLES, OTHER	50	50	50	50
23	WIN-T - GROUND FORCES TACTICAL NETWORK	400,590	400,590	141,290	141,290
	Reduce funding for Increment 1			-259,300	-259,300
28	NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE)	5,800	5,800	5,800	5,800
31	GLOBAL BRDCST SVC - GBS	2,400	2,400	2,400	2,400
35	SINCGARS - GROUND	100,000	0	100,000	50,000
	Funding ahead of need		-100,000		-50,000
47	RADIO, IMPROVED HF (COTS) FAMILY	170,700	170,700	170,700	170,700

		Budget Request	House	Senate	Conference
50	TSEC - ARMY KEY MGT SYS (AKMS)	140	140	140	140
51	INFORMATION SYSTEM SECURITY PROGRAM-ISSP	110,332	110,332	110,332	110,332
55	WORLD WIDE TECHNICAL CONTROL IMPROVEMENT PROGRAM	298,400	298,400	298,400	298,400
56	INFORMATION SYSTEMS	100,120	100,120	100,120	100,120
62	ALL SOURCE ANALYSIS SYS (ASAS) (MIP)	21,200	21,200	21,200	21,200
65	TACTICAL UNMANNED AERIAL SYS (TUAS) (MIP)	236,780	316,780	316,780	316,780
	Provides funding for one Quick Reaction Capability		80,000		0
	Fund multi-band receivers			80,000	80,000
66	SMALL UNMANNED AERIAL SYSTEM (SUAS)	27,547	27,547	27,547	27,547
72	TROJAN (MIP)	24,700	24,700	24,700	24,700
73	MOD OF IN-SVC EQUIP (INTEL SUPPORT)			3,250	3,250
	Fund acoustic UGS sensors			3,250	3,250
75	SEQUOYAH FOREIGN LANGUAGE TRANSLATION SYSTEM	19,687	0	19,687	0
	Requirement being met with available funding		-19,687		-19,687
77	LIGHTWEIGHT COUNTER MORTAR RADAR	34,500	25,900	34,500	25,900
	Adjusted requirement		-8,600		-8,600
78	WARLOCK	354,500	354,500	354,500	354,500
79	COUNTERINTELLIGENCE/SECURITY COUNTERMEASURES	169,799	169,619	169,799	169,619
	Classified adjustment		-180		-180
83	NIGHT VISION DEVICES	82,500	82,500	82,500	101,500
	Transfer from Research, Development, Test and Evaluation, Army, Line 93, Heterogeneous Airborne Reconnaissance Team, for execution				19,000
88	COUNTER-ROCKET, ARTILLERY & MORTAR (C-RAM)	157,700	157,700	157,700	157,700
89	BASE EXPEDITIONARY TARGETING AND SURVEILLANCE SYSTEM	280,500	280,500	280,500	280,500
90	ARTILLERY ACCURACY EQUIPMENT	4,500	4,500	4,500	4,500
93	PROFILER	1,600	1,600	1,600	1,600
94	MOD OF IN-SVC EQUIP (FIREFINDER RADARS)	11,053	11,053	11,053	11,053
95	FORCE XXI BATTLE CMD BRIGADE & BELOW (FBCB2)	135,000	135,000	135,000	135,000
104	FIRE SUPPORT C2 FAMILY	10,800	10,800	10,800	10,800
107	AIR & MSL DEFENSE PLANNING & CONTROL SYSTEM (AMD PCS)	3,932	3,932	3,932	3,932
108	KNIGHT FAMILY	54,000	54,000	54,000	54,000
110	AUTOMATIC IDENTIFICATION TECHNOLOGY	3,000	3,000	3,000	3,000
111	TC AIMS II	1,000	0	0	0
	Reduced requirement		-1,000		0
	Delete funds for baseline need			-1,000	-1,000
116	SINGLE ARMY LOGISTICS ENTERPRISE (SALE)	4,900	0	4,900	0
	Fielding delayed		-4,900		-4,900
118	MOUNTED BATTLE COMMAND ON THE MOVE (MBCOTM)	18,000	18,000	18,000	18,000
121	AUTOMATED DATA PROCESSING EQUIP	72,856	51,700	0	0
	Funding provided supports Overseas Contingency Operations requirements		-21,156		0
	Delete funds for baseline need			-72,856	-72,856
122	CSS COMMUNICATIONS	48,254	41,554	48,254	41,554
	Reduced requirement		-6,700		-6,700
123	OTHER PROGRAMS	573	573	573	573
133	TACTICAL BRIDGING	96,000	96,000	96,000	96,000
136	GRND STANDOFF MINE DETECTION SYSTEM (GSTAMIDS)	146,240	146,240	146,240	146,240
137	EXPLOSIVE ORDNANCE DISPOSAL EQUIPMENT	700	700	700	700
141	LAUNDRIES, SHOWERS AND LATRINES	2,200	2,200	2,200	2,200

		Budget Request	House	Senate	Conference
142	LAND WARRIOR	700	700	700	700
149	CARGO AERIAL DEL & PERSONNEL PARACHUTE SYSTEM	8,700	8,700	8,700	8,700
151	ITEMS LESS THAN $5M (ENG SPT)	5,929	5,929	5,929	5,929
153	DISTRIBUTION SYSTEMS, PETROLEUM & WATER	4,600	4,600	4,600	4,600
155	COMBAT SUPPORT MEDICAL	2,934	2,934	2,934	2,934
156	MOBILE MAINTENANCE EQUIPMENT SYSTEMS	2,689	2,689	2,689	2,689
158	GRADER, ROAD MTZD, HVY, 6X4 (CCE)	7,514	7,514	0	5,014
	Delete funds for baseline need			-7,514	-2,500
163	LOADERS	21,650	21,650	0	10,650
	Delete funds for baseline need			-21,650	-11,000
165	TRACTOR, FULL TRACKED	13,088	13,088	13,088	13,088
168	HIGH MOBILITY ENGINEER EXCAVATOR (HMEE) FAMILY OF SYSTEMS	27,250	27,250	0	0
	Delete funds for baseline need			-27,250	-27,250
174	GENERATORS AND ASSOCIATED EQUIP	17,000	17,000	17,000	17,000
175	ROUGH TERRAIN CONTAINER HANDLER (RTCH)	20,200	40,200	20,100	20,100
	Transfer from All Terrain Lifting Army System		20,000	20,000	20,000
	Delete funds for baseline need			-20,100	-20,100
176	ALL TERRAIN LIFTING ARMY SYSTEM	21,000	1,000	1,000	1,000
	Transfer to Rough Terrain Container Handler		-20,000	-20,000	-20,000
177	COMBAT TRAINING CENTERS SUPPORT	40,700	40,700	0	20,000
	Delete funds for baseline need			-40,700	-20,700
178	TRAINING DEVICES, NONSYSTEM	22,741	22,741	22,741	22,741
185	RAPID EQUIPPING SOLDIER SUPPORT EQUIPMENT	305,200	305,200	309,000	309,000
	Additional Persistent Threat Detection Systems			15,900	15,900
	Unjustified Request			-12,100	-12,100
186	PHYSICAL SECURITY SYSTEMS (OPA3)	25,000	25,000	25,000	25,000
190	BUILDING, PRE-FAB, RELOCATABLE	40,000	40,000	40,000	40,000
	Total Other Procurement, Army	**8,121,572**	**8,039,349**	**7,029,145**	**7,113,742**
	Aircraft Procurement, Navy				
10	UH-1Y/AH-1Z	102,400	277,400	102,400	202,400
	Procure four additional combat loss replacement aircraft		175,000		100,000
12	MH-60S (MYP)	46,100	46,100	46,100	46,100
32	AV-8 SERIES	40,580	40,580	40,580	40,580
33	F-18 SERIES	32,834	26,434	32,834	26,434
	Excessive IDECM delivery time		-6,400		-6,400
34	H-46 SERIES	18,300	18,300	9,500	9,500
	Delete titanium nitride funding, baseline item			-8,800	-8,800
36	H-53 SERIES	16,920	16,920	10,620	10,620
	Delete kapton harness funding, baseline item			-6,300	-6,300
XX	P-3 SERIES		100,000	246,400	50,200
50	SPECIAL PROJECT AIRCRAFT	84,645	0	84,645	84,645
	Excessive delivery time		-84,645		
55	COMMON ECM EQUIPMENT	163,390	163,390	163,390	163,390
59	V-22 (TILT/ROTOR ACFT) OSPREY	1,830	0	1,830	0
	Non-emergency modification		-1,830		-1,830
60	SPARES AND REPAIR PARTS	16,000	2,800	16,000	2,800
	Excess initial spares funding		-13,200		-13,200
61	COMMON GROUND EQUIPMENT	78,000	0	0	0
	Non-emergency trainer procurement		-78,000	-78,000	-78,000
	Total Aircraft Procurement, Navy	**600,999**	**691,924**	**754,299**	**636,669**

		Budget Request	House	Senate	Conference
Weapons Procurement, Navy					
10	**HELLFIRE**	**27,500**	**27,500**	**25,300**	**25,300**
	Unit cost adjustment			-2,200	-2,200
28	**FIRST DESTINATION TRANSPORTATION**	**1,905**	**0**	**1,905**	**0**
	Excess funding		-1,905		-1,905
29	**SMALL ARMS AND WEAPONS**	**4,198**	**4,198**	**4,198**	**4,198**
36	**MARINE CORPS TACTICAL UNMANNED AERIAL SYSTEM**	**65,937**	**0**	**0**	**0**
	Aligns Shadow UAV TDCL upgrade with Army plan		-65,937		-65,937
	Program Delay			-65,937	0
Total Weapons Procurement, Navy		**99,540**	**31,698**	**31,403**	**29,498**
Procurement of Ammo, Navy & Marine Corps					
1	**GENERAL PURPOSE BOMBS**	**30,359**	**30,359**	**30,359**	**30,359**
3	**AIRBORNE ROCKETS, ALL TYPES**	**24,899**	**24,899**	**24,899**	**24,899**
7	**AIR EXPENDABLE COUNTERMEASURES**	**16,200**	**16,200**	**16,200**	**16,200**
11	**OTHER SHIP GUN AMMUNITION**	**907**	**907**	**907**	**907**
12	**SMALL ARMS & LANDING PARTY AMMO**	**1,205**	**1,205**	**1,205**	**1,205**
13	**PYROTECHNIC AND DEMOLITION**	**351**	**351**	**351**	**351**
15	**SMALL ARMS AMMUNITION**	**34,902**	**34,902**	**34,902**	**34,902**
16	**LINEAR CHARGES, ALL TYPES**	**12,819**	**12,819**	**12,819**	**12,819**
17	**40 MM, ALL TYPES**	**25,129**	**25,129**	**25,129**	**25,129**
18	**60MM, ALL TYPES**	**20,197**	**20,197**	**20,197**	**20,197**
19	**81MM, ALL TYPES**	**42,275**	**42,275**	**42,275**	**42,275**
20	**120MM, ALL TYPES**	**34,310**	**34,310**	**34,310**	**34,310**
22	**GRENADES, ALL TYPES**	**16,066**	**16,066**	**16,066**	**16,066**
23	**ROCKETS, ALL TYPES**	**5,380**	**5,380**	**5,380**	**5,380**
24	**ARTILLERY, ALL TYPES**	**63,752**	**63,752**	**63,752**	**63,752**
26	**DEMOLITION MUNITIONS, ALL TYPES**	**13,533**	**13,533**	**13,533**	**13,533**
27	**FUZE, ALL TYPES**	**4,477**	**4,477**	**4,477**	**4,477**
28	**NON LETHALS**	**2,158**	**2,158**	**2,158**	**2,158**
Total Procurement of Ammo, Navy & Marine Corps		**348,919**	**348,919**	**348,919**	**348,919**
Other Procurement, Navy					
40	**SURTASS**	**2,500**	**0**	**0**	**0**
	Non-emergency modification		-2,500		-2,500
	Change to requirement			-2,500	0
43	**SHIPBOARD IW EXPLOIT**	**14,400**	**14,400**	**14,400**	**14,400**
56	**MATCALS**	**59,243**	**0**	**33,598**	**33,598**
	Non-emergency modification/Grow the Force		-59,243		0
	Grow the Force initiative - baseline requirement			-25,645	-25,645
66	**GCCS-M EQUIPMENT TACTICAL/MOBILE**	**7,350**	**7,350**	**7,350**	**7,350**
67	**COMMON IMAGERY GROUND SURFACE SYSTEMS**	**24,518**	**0**	**3,518**	**0**
	Non-emergency TES upgrades		-24,518		-24,518
	Change to requirement			-21,000	0
76	**SHIP COMMUNICATIONS AUTOMATION**	**7,600**	**6,350**	**7,600**	**6,350**
	Excessive growth		-1,250		-1,250
116	**EXPLOSIVE ORDNANCE DISPOSAL EQUIP**	**29,460**	**29,460**	**29,460**	**29,460**
123	**CONSTRUCTION & MAINTENANCE EQUIP**	**33,000**	**33,000**	**33,000**	**33,000**
125	**TACTICAL VEHICLES**	**1,823**	**1,823**	**1,823**	**1,823**
135	**COMMAND SUPPORT EQUIPMENT**	**13,482**	**13,482**	**13,482**	**13,482**
140	**OPERATING FORCES SUPPORT EQUIPMENT**	**5,220**	**0**	**5,220**	**0**

		Budget Request	House	Senate	Conference
140	OPERATING FORCES SUPPORT EQUIPMENT	5,220	0	5,220	0
	Non-emergency equipment		-5,220		-5,220
141	C4ISR EQUIPMENT	3,000	3,000	3,000	3,000
143	PHYSICAL SECURITY EQUIPMENT	63,230	63,230	54,730	54,730
	Change to requirement - biometric device			-8,500	-8,500
	Total Other Procurement, Navy	**264,826**	**172,095**	**207,181**	**197,193**
	Procurement, Marine Corps				
1	AAV7A1 PIP	37	37	37	37
4	LAV PIP	158,590	158,590	158,590	158,590
8	155MM LIGHTWEIGHT TOWED HOWITZER	69,000	69,000	303,000	186,000
	Unfunded requirement			234,000	117,000
9	HIGH MOBILITY ARTILLERY ROCKET SYSTEM	34,830	34,830	34,830	34,830
10	WEAPONS AND COMBAT VEHICLES UNDER $5 MILLION	10,829	10,829	10,829	10,829
11	MODULAR WEAPON SYSTEM	1,739	1,739	1,739	1,739
12	MODIFICATION KITS	83,894	83,894	83,894	83,894
13	WEAPONS ENHANCEMENT PROGRAM	32,461	32,461	9,461	9,461
	Excess funding on hand			-23,000	-23,000
15	JAVELIN	35,548	35,548	35,548	35,548
18	MODIFICATION KITS	62,698	62,698	62,698	62,698
19	UNIT OPERATIONS CENTER	29,334	29,334	82,534	82,534
	OEF UUNS			53,200	53,200
20	REPAIR AND TEST EQUIPMENT	46,145	46,145	46,145	46,145
21	COMBAT SUPPORT SYSTEM	1,648	1,648	1,648	1,648
23	ITEMS UNDER $5 MILLION (COMM & ELEC)	2,282	2,282	2,282	2,282
24	AIR OPERATIONS C2 SYSTEMS	1,064	1,064	1,064	1,064
25	RADAR SYSTEMS	19,520	19,520	19,520	19,520
26	FIRE SUPPORT SYSTEM	3,005	3,005	3,005	3,005
27	INTELLIGENCE SUPPORT EQUIPMENT	68,770	68,770	68,770	68,770
30	NIGHT VISION EQUIPMENT	48,883	48,883	28,883	28,883
	Contract cost savings			-20,000	-20,000
31	COMMON COMPUTER RESOURCES	58,903	42,703	43,903	42,703
	Reduction of account for base bill items		-16,200		-16,200
	Execution delays			-15,000	0
32	COMMAND POST SYSTEMS	14,517	14,517	14,517	14,517
XX	COMM & ELECT INFRASTRUCTURE SUPPORT			2,250	2,250
	RDA Leave behind-acoustics UGS			2,250	2,250
33	RADIO SYSTEMS	45,675	45,675	0	0
	Execution delays			-45,675	-45,675
34	COMM SWITCHING & CONTROL SYSTEMS	16,400	16,400	24,400	22,400
	Unfunded requirement			8,000	6,000
38	5/4T TRUCK HMMWV (MYP)	153,180	153,180	103,180	103,180
	Non-combat losses			-50,000	-50,000
39	MOTOR TRANSPORT MODIFICATIONS	15,855	15,855	45,855	38,355
	Lightweight Mine Rollers			30,000	22,500
40	MEDIUM TACTICAL VEHICLE REPLACEMENT	29,891	29,891	29,891	29,891
41	LOGISTICS VEHICLE SYSTEM REP	23,814	23,814	0	0
	Program adjustment			-23,814	-23,814
42	FAMILY OF TACTICAL TRAILERS	4,060	4,060	4,060	4,060
44	ITEMS LESS THAN $5 MILLION	1,389	1,389	1,389	1,389
45	ENVIRONMENTAL CONTROL EQUIP ASSORT	4,619	4,619	4,619	4,619
46	BULK LIQUID EQUIPMENT	3,962	3,962	3,962	3,962
47	TACTICAL FUEL SYSTEMS	11,436	11,436	11,436	11,436
48	POWER EQUIPMENT ASSORTED	25,377	25,377	25,377	25,377

		Budget Request	House	Senate	Conference
49	**AMPHIBIOUS SUPPORT EQUIPMENT**	**545**	**545**	**15,545**	**11,545**
	Unfunded requirements			15,000	11,000
50	**EOD SYSTEMS**	**110,680**	**110,680**	**75,680**	**75,680**
	Unvalidated requirement			-35,000	-35,000
51	**PHYSICAL SECURITY EQUIPMENT**	**160,070**	**47,870**	**48,070**	**47,870**
	Reduced by amount of GBOSS reprogramming - program complete		-112,200		-112,200
	Previously funded requirement			-112,000	0
53	**MATERIAL HANDLING EQUIP**	**59,593**	**59,593**	**59,593**	**59,593**
55	**FIELD MEDICAL EQUIPMENT**	**11,243**	**11,243**	**11,243**	**11,243**
56	**TRAINING DEVICES**	**50,927**	**50,927**	**50,927**	**50,927**
57	**CONTAINER FAMILY**	**1,079**	**1,079**	**1,079**	**1,079**
58	**FAMILY OF CONSTRUCTION EQUIPMENT**	**105,990**	**105,990**	**107,990**	**107,990**
	Unfunded requirements			2,000	2,000
59	**FAMILY OF INTERNALLY TRANSPORTABLE VEHICLES (ITV)**	**12,000**	**12,000**	**12,000**	**12,000**
61	**RAPID DEPLOYABLE KITCHEN**	**1,287**	**1,287**	**1,287**	**1,287**
62	**ITEMS LESS THAN $5 MILLION**	**617**	**617**	**617**	**617**
63	**SPARES AND REPAIR PARTS**	**5,000**	**5,000**	**5,000**	**5,000**
Total Procurement, Marine Corps		**1,638,386**	**1,509,986**	**1,658,347**	**1,526,447**
Aircraft Procurement, Air Force					
4	**F-22A**	**600,000**	**600,000**	**498,000**	**600,000**
	Full funding for fiscal year 2009			45,000	0
	Delete shut down funding			-147,000	0
XX	**C-17A**		**2,245,200**		**2,170,200**
	Provides for 8 C-17 aircraft		2,245,200		2,170,200
XX	**C-130**		**904,200**		**504,000**
	Provides for 3 MC-130J and 4 HC-130J		904,200		504,000
20	**C-12 A**	**45,000**	**45,000**	**45,000**	**45,000**
29	**MQ-9 UAV**	**195,858**	**305,858**	**195,858**	**195,858**
	Provides for MQ-9 Reaper aircraft		110,000		0
XX	**A-10**			**150,000**	**0**
	Provide additional re-wing kits			150,000	0
36	**F-16**	**63,200**	**63,200**	**63,200**	**63,200**
39	**C-5**	**104,800**	**59,800**	**104,800**	**82,300**
	Provides funding for C-5A defensive systems and limited LAIRCM systems due to inability of Air Force to install within the next 12 months		-45,000		-22,500
42	**C-17A**	**230,200**	**0**	**0**	**0**
	Provides no funding for LAIRCM systems due to inability of Air Force to install within the next 12 months		-230,200		-230,200
	Funded ahead of need			-230,200	**0**
52	**C-12**	**89,000**	**111,500**	**105,000**	**105,000**
	C-12 Modifications transferred from line 89		45,000	45,000	45,000
	Pricing correction on sensor kits		-22,500		0
	Funded ahead of need			-29,000	-29,000
56	**C-130**	**189,910**	**118,410**	**118,410**	**118,410**
	Provides funding for only 11 LAIRCM systems due to inability of Air Force to install within the next 12 months		-71,500	-71,500	-71,500
60	**DARP**	**6,250**	**6,250**	**6,250**	**6,250**
66	**RQ-4 UAV MODS**	**32,000**	**0**	**0**	**0**
	Groundbased Radar for Beale (doesn't deliver until 2012)		-32,000	-32,000	-32,200
69	**MQ-1 MODS**	**49,500**	**49,500**	**49,500**	**49,500**

		Budget Request	House	Senate	Conference
70	MQ-9 MODS	114,700	32,700	114,700	32,700
	WAAS/Gorgon Stare Unjustified Request		-82,000		-82,000
XX	COMMON SUPPORT EQUIPMENT		6,250		6,250
	Ten COTS Aircraft Air Conditioning Systems for Mobility aircraft in the CENTCOM AOR		6,250		6,250
89	OTHER PRODUCTION CHARGES	641,000	573,000	596,000	596,000
	Transfer C-12 modifications to Line 52		-45,000	-45,000	-45,000
	Classified adjustment		-23,000		0
92	DARP	17,400	17,400	17,400	17,400
	Total Aircraft Procurement, Air Force	**2,378,818**	**5,138,268**	**2,064,118**	**4,592,068**
	Missile Procurement, Air Force				
5	PREDATOR HELLFIRE MISSILE	57,416	57,416	49,716	49,716
	Unit cost adjustment			-7,700	-7,700
	Total, Missile Procurement, Air Force	**57,416**	**57,416**	**49,716**	**49,716**
	Procurement of Ammunition, Air Force				
1	ROCKETS	5,600	5,600	5,600	5,600
2	CARTRIDGES	21,884	21,884	21,884	21,884
3	PRACTICE BOMBS	21,200	21,200	21,200	21,200
4	GENERAL PURPOSE BOMBS	36,700	36,700	36,700	36,700
5	JOINT DIRECT ATTACK MUNITION	85,400	85,400	40,000	60,400
	Funds ahead of need			-45,400	-25,000
7	EXPLOSIVE ORDNANCE DISPOSAL (EOD)	3,000	3,000	3,000	3,000
12	FUZES	6,800	6,800	6,800	6,800
13	SMALL ARMS	3,100	3,100	3,100	3,100
	Total Procurement of Ammunition, Air Force	**183,684**	**183,684**	**138,284**	**158,684**
	Other Procurement, Air Force				
XX	PASSENGER CARRYING VEHICLES	0	0	12,555	0
	Transferred from OPAF, Other Programs		12,555		12,555
	Extremely low FY08 and FY09 execution		-12,555		-12,555
2	MEDIUM TACTICAL VEHICLE	15,000	0	15,000	0
	Extremely low FY08 and FY09 execution		-15,000		-15,000
4	SECURITY AND TACTICAL VEHICLES	17,500	0	4,100	0
	Extremely low FY08 and FY09 execution		-17,500		-17,500
	Non-combat losses			-12,696	0
	Pricing change			-704	0
5	FIRE FIGHTING/CRASH RESCUE VEHICLES	9,566	0	7,734	0
	Extremely low FY08 and FY09 execution		-9,566		-9,566
	Non-combat losses			-1,832	0
7	RUNWAY SNOW REMOV AND CLEANING EQUIPMENT	1,544	1,544	1,544	1,544
XX	OTHER PROGRAMS	12,555	0	0	0
	Transferred to OPAF, Passenger Carrying Vehicles		-12,555		-12,555
12	INTELLIGENCE COMM EQUIPMENT	6,570	6,570	6,570	6,570
14	NATIONAL AIRSPACE SYSTEM	19,100	19,100	19,100	19,100
15	THEATER AIR CONTROL SYSTEMS IMPROVEMENT	4,540	4,540	0	0
	Unjustified request			-4,540	-4,540
16	WEATHER OBSERVATION FORECAST	2,780	2,780	2,780	2,780
25	C3 COUNTERMEASURES	1,600	1,600	1,600	1,600

		Budget Request	House	Senate	Conference
29	**BASE INFO INFRASTRUCTURE**	**20,000**	**0**	**0**	**0**
	Combat Information System (unjustified request)		-20,000		-20,000
	Early to need			-20,000	
30	**USCENTCOM**	**8,100**	**8,100**	**20,900**	**20,900**
	Afghan ISR infrastructure			12,800	12,800
42	**RADIO EQUIPMENT**	**7,000**	**7,000**	**0**	**0**
	Premature funding request			-7,000	-7,000
46	**COMM ELECT MODS**	**6,415**	**6,415**	**4,277**	**4,277**
	Funded at maximum production rate			-2,138	-2,138
47	**NIGHT VISION GOGGLES**	**18,128**	**18,128**	**18,128**	**18,128**
50	**BASE PROCURED EQUIPMENT**	**3,500**	**3,500**	**3,500**	**3,500**
54	**ITEMS LESS THAN $5,000,000**	**20,000**	**20,000**	**20,000**	**20,000**
60	**DEFENSE SPACE RECONNAISSANCE PROGRAM**	**52,000**	**52,000**	**72,000**	**72,000**
XX	**OTHER PROGRAMS**	**1,609,055**	**1,594,484**	**1,700,555**	**1,631,684**
	Classified adjustment		-14,571	91,500	22,629
Total Other Procurement, Air Force		**1,834,953**	**1,745,761**	**1,910,343**	**1,802,083**
Procurement, Defense-Wide					
XX	**OTHER PROGRAMS**	**183,071**	**183,071**	**223,871**	**223,871**
69	**SOF ORDNANCE REPLENISHMENT**	**1,000**	**1,000**	**1,000**	**1,000**
71	**COMMUNICATIONS EQUIPMENT AND ELECTRONICS**	**3,100**	**3,100**	**3,100**	**3,100**
72	**SOF INTELLIGENCE SYSTEMS**	**8,100**	**8,100**	**8,100**	**8,100**
95	**SOF OPERATIONAL ENHANCEMENTS**	**1,797**	**4,797**	**1,797**	**1,797**
	Tactical Combat Casualty Care Equipment		3,000		0
Total Procurement, Defense-Wide		**197,068**	**200,068**	**237,868**	**237,868**

STRYKER VEHICLES

The conference agreement supports continuation of the Stryker vehicle program which has demonstrated excellent performance in combat operations in the Central Command area of operations. The conference agreement provides $200,000,000 above the budget request to procure additional Stryker vehicles. Funds may be used to procure additional medical evacuation vehicles, engineer squad vehicles and other Stryker variants, based on Army needs, and to sustain continued production. As part of the Department of Defense Quadrennial Defense Review, the Army is undertaking a major analysis of its tracked and tactical wheeled vehicle needs. This review will set the course for the future force and help establish the specific vehicle requirements. The conferees direct the Secretary of the Army to provide a report to the congressional defense committees, no later than September 30, 2009 with the plan to sustain Stryker vehicle production and the details on which vehicles (variant and quantity) will be procured with the provided funding.

RAPID EQUIPPING FORCE

The conference agreement provides $309,000,000 for the Army Rapid Equipping Force (REF), including $99,000,000 for Counter Sniper and Soldier Wearable Acoustic Targeting Sniper Systems. This amount should satisfy numerous emergency requests from forward deployed and forward deploying units. The conferees direct the Secretary of the Army to provide an acquisition objective and basis of issue plan for both vehicular and soldier wearable sniper detection equipment within 60 days after enactment of this Act. If shortfalls still exist, the Army is expected to reprogram the necessary funds to accommodate the shortfalls.

WEAPONS ENHANCEMENT PROGRAM

The budget request included $32,461,000 for various force protection items and weapons upgrades in Procurement, Marine Corps. The conferees note that the Congress previously provided $23,000,000 in this procurement line for a requirement that was subsequently not validated and directs the Marine Corps to apply those funds toward the requirements in the fiscal year 2009 supplemental request for weapons enhancements.

COMBAT OPERATIONS CENTERS

The conferees understand that subsequent to the budget submission, an Urgent Universal Needs Statement for additional Combat Operations Centers for Marine units in support of operations in Afghanistan was validated. The conference agreement provides $53,200,000 in Procurement, Marine Corps to fully satisfy this requirement.

EXPLOSIVE ORDNANCE DISPOSAL SYSTEMS

The budget request includes $35,000,000 for a U.S. Central Command Urgent Universal Needs Statement for a Standoff Suicide Bomber Detection System in Procurement, Marine Corps. The conferees have been informed that the Urgent Universal Needs Statement was suspended following the budget submission and therefore provide no funds for this effort.

PHYSICAL SECURITY EQUIPMENT

The budget request includes $112,200,000 in Procurement, Marine Corps for physical security requirements that were previously funded. The conferees deny the redundant funds.

F–22 AIRCRAFT

The Air Force has informed the Congress that funding in the amount of $45,000,000 is required for the F–22 Raptor program to avoid a work stoppage in material processing and fabrication activities during fiscal year 2009. The conferees direct the Secretary of the Air Force to use $45,000,000 from within the funds provided to ensure that work proceeds on schedule. None of the funds provided in this Act shall be used to finance activities to shut-down the F–22A production line. Funds may be used to explore options to develop an export variant of the F–22A.

NATIONAL GUARD AND RESERVE EQUIPMENT

The National Guard and Reserve components traditionally receive less than a proportionate share of funding to resource their equipment needs. As a result, the conferees recommend funding of $500,000,000 for the National Guard and Reserve forces. Of that amount, $300,000,000 is for the Army National Guard; $50,000,000 for the Air National Guard; $75,000,000 for the U.S. Army Reserve; $25,000,000 for the Navy Reserve; $25,000,000 for the Marine Corps Reserve; and $25,000,000 for the Air Force Reserve to meet urgent equipment needs that may arise this fiscal year. This funding will allow the National Guard and Reserve components to procure high priority equipment that may be used by these units for both their combat missions and their missions in support of State governors.

[In thousands of dollars]

	Budget request	House	Senate	Conference
Army National Guard		300,000	300,000	300,000
Air National Guard		50,000	50,000	50,000
U.S. Army Reserve		75,000	75,000	75,000
Navy Reserve		25,000	25,000	25,000
Marine Corps Reserve		25,000	25,000	25,000
Air Force Reserve		25,000	25,000	25,000
Total National Guard and Reserve Equipment Account		500,000	500,000	500,000

MINE RESISTANT AMBUSH PROTECTED VEHICLE FUND

The conferees recommend $4,543,000,000 for the Mine Resistant Ambush Protected Vehicle Fund, an increase of $1,850,000,000 above the request and direct that the additional funds shall be for the procurement and fielding of Mine Resistant Ambush Protected All Terrain Vehicles (M–ATV) only. M–ATVs are urgently needed to protect servicemembers against improvised explosive devices and other threats in Afghanistan. These new, lightweight MRAPs operate better than current vehicles in the close urban environments and challenging terrain of Afghanistan. The conferees expect that the Joint Program Office will move rapidly to field these critical force protection assets to the Warfighter.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conference agreement recommends $833,499,000 for research, development, test and evaluation.

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

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

		Budget Request	House	Senate	Conference
Research, Development, Test & Evaluation, Army					
61	**SOLDIER SUPPORT AND SURVIVABILITY**	**6,944**	**6,944**	**2,645**	**2,645**
	Unjustified request			-4,299	-4,299
93	**NIGHT VISION SYSTEMS - SDD**	**64,500**	**64,500**	**68,900**	**49,900**
	Kabul Persistent Threat Detection System			4,400	4,400
	Transfer to Other Procurement, Army Line 83, Heterogeneous Airborne Reconaissance Team, for execution				-19,000
134	**EXPLOITATION OF FOREIGN ITEMS**	**390**	**390**	**390**	**390**
162	**INFORMATION SYSTEMS SECURITY PROGRAM**	**1,900**	**1,900**	**0**	**0**
	Unjustified requirement			-1,900	-1,900
Total Research, Development, Test & Evaluation, Army		**73,734**	**73,734**	**71,935**	**52,935**
Research, Development, Test & Evaluation, Navy					
91	**V-22A**	**3,900**	**0**	**3,900**	**0**
	Non-emergency development effort		-3,900		-3,900
122	**INTELLIGENCE ENGINEERING**	**1,850**	**0**	**1,850**	**0**
	CNO Nodal analysis		-1,850		-1,850
180	**MARINE CORPS COMMUNICATIONS SYSTEMS**	**8,700**	**0**	**0**	**0**
	Non-emergency development effort		-8,700		-8,700
	CESAS-continue deployment on MRAP			-8,700	0
202	**MANNED RECONNAISSANCE SYSTEMS**	**8,855**	**0**	**26,700**	**35,555**
	Excessive delivery time		-8,855		0
	Unjustified request			-8,855	0
	Saber Focus			26,700	26,700
XXX	**OTHER PROGRAMS**	**121,231**	**96,231**	**109,231**	**101,231**
	Program Adjustment				-20,000
Total Research, Development, Test & Evaluation, Navy		**144,536**	**96,231**	**141,681**	**136,786**
Research, Development, Test & Evaluation, Air Force					
86	**LINK 16 SUPPORT AND SUSTAINMENT**			**61,000**	**61,000**
	Interim Gateway/Battlefield Airborne Communication Node			61,000	61,000
XXX	**OTHER PROGRAMS**	**108,259**	**92,574**	**113,259**	**99,474**
	Program Adjustment				-8,785
Total Research, Development, Test & Evaluation, Air Force		**108,259**	**92,574**	**174,259**	**160,474**

		Budget Request	House	Senate	Conference
Research, Development, Test & Evaluation, Defense-Wide					
23	**SPECIAL OPERATIONS TECHNOLOGY DEVELOPMENT**		**2,000**		**2,000**
	Freeze-Dried Platelet and Plasma Development		2,000		2,000
124	**WOUNDED ILL AND INJURED SENIOR OVERSIGHT COMMITTEE STAFF OFFICE**	**15,645**	**15,645**	**15,645**	**15,645**
139	**GENERAL SUPPORT TO USD (INTELLIGENCE)**	**17,250**	**11,500**	**17,250**	**11,500**
	Program Adjustment		-5,750	0	-5,750
	OTHER PROGRAMS	**2,001**	**0**	**2,001**	**0**
	Program Adjustment		-2,001		-2,001
210	**DEFENSE JOINT COUNTERINTELLIGENCE ACTIVITIES**	**1,545**	**1,545**	**1,545**	**1,545**
XXX	**OTHER PROGRAMS**	**446,927**	**428,701**	**461,727**	**452,614**
	Program Adjustment		-18,226	14,800	5,687
Total Research, Development, Test & Evaluation, Defense-Wide		**483,368**	**459,391**	**498,168**	**483,304**

KINETIC ENERGY INTERCEPTOR

The conferees understand a stop work order on the Kinetic Energy Interceptor (KEI) was issued May 11, 2009. However, the KEI program had a booster flight test scheduled in Fall 2009 that could provide an important understanding of the technology risk for any future interceptor development. The conferees further understand that the KEI program has already produced valuable technical accomplishments. The conferees strongly encourage the Missile Defense Agency to execute this test, within funds that have been made available for KEI, to gain significant technical knowledge for this program.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

The conference agreement recommends $861,726,000 for the Defense Working Capital Fund accounts. This supports funding of $443,200,000 for the Defense Working Capital Fund, Army, to re-stock spare and repair parts essential to the operational readiness of the Army; $15,000,000 for the Defense Working Capital Fund, Air Force, for the transportation of Fallen Heroes from the theater of operations; and $403,526,000 for the Defense Working Capital Fund, Defense-Wide, for contingency operations costs for the Defense Information Systems Agency and the Defense Logistics Agency.

[In thousands of dollars]

	Budget request	House	Senate	Conference
WCF—Army:				
Spare Parts	443,200	443,200	443,200	443,200
Total, Working Capital Fund, Army	443,200	443,200	443,200	443,200
WCF—Air Force:				
TWCF for Transportation of Fallen Heroes (transfer from IFF)		0	15,000	15,000
Total, Working Capital Fund, Air Force		0	15,000	15,000
WCF—Defense-Wide:				
DLA Distribution Depots	33,600	33,600	33,600	33,600
DLA DRMS Operations	34,416	34,416	34,416	34,416
DLA Supply Management	322,410	322,410	322,410	322,410
DISA Information Services	13,100	13,100	13,100	13,100
Total, Working Capital Fund, Defense-Wide	403,526	403,526	403,526	403,526
Grand Total, Working Capital Funds	846,726	846,726	861,726	861,726

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

The conference agreement recommends $1,055,297,000 for the Defense Health Program.

The recommendations for the Defense Health Program are shown below:

[In thousands of dollars]

	Budget request	House	Senate	Conference
Operation and Maintenance	845,508	845,508	845,508	845,508
In-House Care	178,828	178,828	178,828	178,828
Private Sector Care	579,243	579,243	579,243	579,243
Consolidated Health Care	68,196	68,196	68,196	68,196
Information Management/IT	5,700	5,700	5,700	5,700
Education and Training	9,119	9,119	9,119	9,119
Base Operations and Communications	4,422	4,422	4,422	4,422
Procurement	30,185	50,185	30,185	50,185
Rehabilitation Equipment		20,000		20,000
Research, Development, Test & Evaluation	33,604	201,604	33,604	159,604
Psychological Health and Traumatic Brain Injury		100,000		75,000
Orthopedic Research		68,000		51,000

TRAUMATIC BRAIN INJURY AND PSYCHOLOGICAL HEALTH RESEARCH

The conference agreement provides $75,000,000 for Traumatic Brain Injury (TBI) and Psychological Health peer-reviewed and/or competitively awarded research, development, test and evaluation efforts. The funding provided is to be allocated as recommended in the House Report 111–105 to validate emergent approaches and technologies and to accelerate on-going programs for early diagnosis, assessment and treatment of TBI and Psychological Health, including spinal cord injury, and complementary and alternative medicine.

ORTHOPEDIC RESEARCH

The conference agreement provides $51,000,000 for orthopedic and other trauma research, treatment and rehabilitation including regenerative medicine. This funding will continue and expand the existing orthopedic trauma research program, amputee rehabilitation and reset research, and restoration of function. Serious limb trauma, vascular injuries, major limb tissue damage, and blood flow disruption contribute heavily to United States military casualties in Iraq and Afghanistan. The Department of Defense estimates indicate that nearly two thirds of injuries sustained in combat in Iraq and Afghanistan are musculoskeletal. Extremity injuries are the most prevalent injury, and amputations following battlefield injury now occur at twice the rate as in past wars. Understanding how to treat and facilitate rapid recovery from orthopedic injuries should be one of the top priorities for the Military Health System.

REHABILITATION EQUIPMENT

The conference agreement provides $20,000,000 to procure equipment for rehabilitation facilities currently under construction. The equipment will enable continued state-of-the-art care for soldiers with various types of injuries to recover to their full potential and return to a more normal way of life.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

The conference agreement recommends $120,398,000 for the Drug Interdiction and Counter-Drug Activities, Defense program.

The recommendations for the Drug Interdiction and Counter-Drug Activities, Defense program are shown below:

[In thousands of dollars]

	Budget request	House	Senate	Conference
Afghanistan	57,308	57,308	57,308	57,308
Pakistan	25,800	25,800	10,000	10,000
Frontier Headquarters Construction			−11,800	−11,800
Mi–17 Overhaul			−4,000	−4,000
Tajikistan	18,940	18,940	16,940	16,940
English Language Lab			−2,000	−2,000
Turkmenistan	2,850	2,850	2,850	2,850
Kyrgyzstan	21,520	21,520	21,520	21,520
Kazakhstan	10,580	10,580	10,580	10,580
Uzbekistan	4,000	0	4,000	1,000
Other regional support	200	200	200	200
Total Drug Interdiction and Counter-Drug Activities, Defense	141,198	137,198	123,398	120,398

JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND

The conference agreement recommends $1,116,746,000 for the Joint Improvised Explosive Device Defeat Fund.

The recommendations for the Joint Improvised Explosive Device Defeat Fund are shown below:

[In thousands of dollars]

	Budget request	House	Senate	Conference
Attack the network	499,830	499,830	349,830	349,830
Excess to requirement			−150,000	−150,000
Defeat the device	607,389	457,389	457,389	457,389
Excess to requirement		−150,000	−150,000	−150,000
Train the force	333,527	333,527	283,527	283,527
Excess to requirement			−50,000	−50,000
Staff and infrastructure	26,000	26,000	26,000	26,000
Total Joint Improvised Explosive Device Defeat Fund	1,466,746	1,316,746	1,116,746	1,116,746

OFFICE OF THE INSPECTOR GENERAL

The conference agreement recommends $9,551,000 for the Office of the Inspector General.

GENERAL PROVISIONS

Title III contains several general provisions, many of which extend or modify war-related authorities included in previous Acts. A brief description of the recommended provisions follows:

The conferees agree to retain sections 10001 and 301, as proposed by the House and the Senate, which establish the period of availability for obligation for appropriations provided in this title and that funds made available in this title are in addition to amounts appropriated or made available for the Department of Defense for fiscal year 2009.

(INCLUDING TRANSFER OF FUNDS)

The conferees agree to retain and amend sections 10002 and 302, as proposed by the House and the Senate, which provide special transfer authority for funds made available in this Act for the Department of Defense.

The conferees agree to retain and amend sections 10003 and 303, as proposed by the House and the Senate, which provide for the obligation and expenditure of funds related to activities pursuant to section 504(a)(1) of the National Security Act of 1947.

(INCLUDING TRANSFER OF FUNDS)

The conferees agree to retain and amend sections 10004 and 304, as proposed by the House and the Senate, which provide for transfers from the Defense Cooperation Account.

The conferees agree to retain and amend sections 10005 and 305, as proposed by the House and the Senate, which provide that, for construction projects in Afghanistan funded with operation and maintenance funds, supervisory and administrative costs may be obligated when the contract is awarded.

(INCLUDING RESCISSIONS)

The conferees agree to retain and amend section 10006, as proposed by the House, which provides a two year period of availability for the Iraq Security Forces Fund.

The conferees agree to retain sections 10007 and 306, as proposed by the House and the Senate, which provide authority to use operation and maintenance appropriations to purchase items having an investment item unit cost of not more than $250,000, or upon determination by the Secretary of Defense that the operational requirements of a Commander of a Combatant Command engaged in contingency operations overseas can be met, funds may be used to purchase items having an investment item unit cost of not more than $500,000.

The conferees agree to delete section 10008 as proposed by the House regarding Commander's Emergency Response Program.

The conferees agree to delete section 10009 as proposed by the House regarding military spouse career transition assistance internship program.

The conferees agree to delete section 10010 as proposed by the House regarding the Air Safety System for the Kyrgyz Republic.

The conferees agree to retain sections 10011 and 307 as proposed by the House and the Senate, which provide for the procurement of passenger motor vehicles for use by military and civilian employees of the Department of Defense in Iraq and Afghanistan.

The conferees agree to retain and amend sections 10012 and 308 as proposed by the House and the Senate regarding rescissions. The rescissions agreed to are:

(RESCISSIONS)

2007 Appropriations:	
Procurement, Marine Corps:	
Training Devices	$53,200,000
CAC2S	1,200,000
2008 Appropriations:	
Other Procurement, Army:	
Combat ID	4,100,000
SAT Term, EMUT	4,500,000
LRAS3	8,400,000
Smoke & Obscurant Family	8,000,000
Heaters and ECUs	4,300,000
Procurement, Marine Corps:	
CAC2S	10,300,000
Aircraft Procurement, Air Force:	
F–22A	7,676,000
Common Support Equipment	36,324,000
Research, Development, Test and Evaluation, Navy:	
Classified	5,000,000
Silent Guardian	6,300,000
Research, Development, Test and Evaluation, Air Force:	
CSAR–X RDT&E	36,107,000
Research, Development, Test and Evaluation, Defense-Wide:	
DARPA: Undistributed	150,000,000
DARPA: Sensor Technology	650,000
DARPA: Guidance Technology	9,270,000
General Support to USD/I	9,204,000
2009 Appropriations:	
Operation and Maintenance, Army:	
Fuel	352,359,000
Operation and Maintenance, Navy:	
Fuel	881,481,000
Operation and Maintenance, Marine Corps:	
Fuel	54,466,000
Operation and Maintenance, Air Force:	
Fuel	925,203,000
Operation and Maintenance, Defense-Wide:	
Fuel	81,135,000
Classified	5,000,000
Classified	181,500,000
Operation and Maintenance, Army Reserve:	
Fuel	23,338,000
Operation and Maintenance, Navy Reserve:	
Fuel	62,910,000
Operation and Maintenance, Marine Corps Reserve:	
Fuel	1,250,000
Operation and Maintenance, Air Force Reserve:	
Fuel	163,786,000
Operation and Maintenance, Army National Guard:	
Fuel	57,819,000
Operation and Maintenance, Air National Guard:	
Fuel	250,645,000
Aircraft Procurement, Army:	
Common Ground Equipment	11,000,000
Airborne Avionics	11,600,000
Procurement of Ammunition, Army:	
CTG, Tank, 120MM, All Types	46,800,000
Signals, All Types	50,100,000
Mine, Clearing Charge, All Types	2,000,000
Ammo Components (Renovation)	8,200,000
Other Procurement, Army:	
Force XXI Battle Command Brigade & Below	50,000,000
Modification of In-Service Equipment (OPA3)	30,200,000
Defense Enterprise Wideband SATCOM System	6,000,000
Long Range Advanced Scout Surveillance	47,300,000
Night Vision Thermal Weapon Sight	41,500,000
Field Feeding Equipment	7,000,000
Close Combat Tactical Trainer	8,000,000
Lightweight Laser Designator Rangefinder	55,000,000
Procurement, Marine Corps:	
CAC2S	10,300,000
Other Procurement, Air Force:	
Base Information Infrastructure	17,500,000

Procurement, Defense-Wide:	
Unmanned Vehicles	6,400,000
Research, Development, Test and Evaluation, Army:	
Aerial Common Sensor	157,710,000
Rapid Equipping Force	20,000,000
Armed Reconnaissance Helicopter	10,000,000
Research, Development, Test and Evaluation, Navy:	
Fuel	30,510,000
VH–71	47,000,000
CG (X)	73,600,000
Harpoon Upgrades	11,450,000
Aerial Common Sensor	30,000,000
Classified	24,500,000
Research, Development, Test and Evaluation, Air Force:	
Fuel	15,098,000
Transformational SATCOM	150,000,000
CSAR–X RDT&E	92,469,000
Single Integrated Air Picture	20,000,000
MILSATCOM Terminals	10,000,000

The conferees agree to delete section 10013 as proposed by the House regarding the transfer of $150,600,000 from various Army procurement accounts to military personnel accounts.

The conferees agree to delete section 10014 as proposed by the House which rescinds unobligated balances from Operation and Maintenance, Defense-Wide.

(INCLUDING TRANSFER OF FUNDS)

The conferees agree to retain and amend section 10015 as proposed by the House which provides for retroactive Stop Loss payments.

The conferees agree to retain section 10016 as proposed by the House which provides for authority to retire certain aircraft.

The conferees agree to retain sections 10017 and 309, as proposed by the House and the Senate, which prohibit obligation or expenditure of funds contrary to the provisions of Section 814 of the National Defense Authorization Act, Fiscal Year 2007 (P.L. 109–364).

The conferees agree to retain sections 10018 and 310, as proposed by the House and the Senate, which prohibit the use of funds available in this Act for the Department of Defense to finance projects denied by the Congress in the fiscal year 2008 or fiscal year 2009 Department of Defense Appropriations Acts.

The conferees agree to retain section 10019 as proposed by the House, which bans the establishment of permanent bases in Iraq or U.S. control over oil resources.

The conferees agree to retain section 10020 and 311, as proposed by the House and the Senate, which prohibit the obligation of expenditure of funds in this or any other Act to establish a permanent base in Afghanistan.

The conferees retain and amend section 10021 as proposed by the House which requires a report on Iraq troop draw down.

The conferees agree to retain section 312 as proposed by the Senate, which modifies reporting requirements on Iraq and Afghanistan Security Forces funds to include the Pakistan Counterinsurgency Fund.

The conferees agree to retain and amend section 313 as proposed by the Senate, which modifies section 1174(h)(1), title 10 U.S.C. to allow recoupment of special pay, special separation benefits and voluntary separation incentives.

The conferees agree to delete section 314 as proposed by the Senate which designated funding as being for overseas deployment and other activities.

The conferees agree to retain and amend section 315 as proposed by the Senate regarding a study of the detention facility at Naval Station Guantanamo Bay.

TITLE IV—SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATION AND MAINTENANCE

The conference agreement provides $42,875,000 for Operation and Maintenance, instead of $38,375,000 as proposed by the Senate. The House proposed no funding for this account.

FLOOD CONTROL AND COASTAL EMERGENCIES

The conference agreement provides $754,290,000 for Flood Control and Coastal Emergencies as proposed by the Senate. The House proposed no funding for this account. Within the funds provided, $315,290,000 is for the Corps to prepare for flood, hurricane, and other natural disasters; support emergency operations, repairs, and other activities in response to flood and hurricane emergencies, as authorized by law; and repair and rehabilitate eligible projects that were affected by natural disasters. An additional $439,000,000 is provided for barrier island restoration and ecosystem restoration along the Mississippi Gulf Coast.

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

STRATEGIC PETROLEUM RESERVE

(TRANSFER OF FUNDS)

The conference agreement provides $21,585,723 for Strategic Petroleum Reserve to be derived by transfer from the SPR Petroleum Account as proposed by the House and Senate.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

The conference agreement provides $30,000,000 to sustain a program at the nuclear weapons laboratories and other entities to analyze nuclear and biological weapons intelligence. The Senate bill proposed $34,500,000 for such activities. The House proposed no funding for this account. With this funding, the Secretary of Energy, in cooperation with the Director of National Intelligence, shall develop and implement a plan for investing these funds and sustaining this critical analytical capability.

DEFENSE NUCLEAR NONPROLIFERATION

The conference agreement provides $55,000,000 for Defense Nuclear Nonproliferation as proposed by the House and Senate.

GENERAL PROVISIONS—THIS TITLE

The conference agreement includes a provision proposed by the Senate concerning Department of Energy Limited Transfer Authority. The House proposed no similar provision.

The conference agreement includes a provision proposed by the Senate concerning Federal Employment Requirements. The House proposed no similar provision.

The conference agreement includes a provision proposed by the Senate amending section 3181 of Public Law 110–114 to deauthorize two Corps of Engineers projects. The House proposed no similar provision.

The conference agreement includes a provision proposed by the Senate concerning reprogramming of funds provided in Public Law 111–5 to the Corps of Engineers. The House proposed no similar provision.

The conference agreement includes a provision proposed by the Senate concerning reprogramming of funds provided in Public Law 111–5 to the Bureau of Reclamation. The House proposed no similar provision.

The conference agreement includes a provision proposed by the Senate restricting spending on mission relocation of either the design authority for the gas transfer systems or tritium research and development facilities until an independent technical mission review and cost analysis is performed. The House proposed no similar provision.

The conference agreement includes a provision proposed by the Senate increasing the cost ceiling for a Corps of Engineers project. The House proposed no similar provision.

The conference agreement deletes a provision proposed by the Senate concerning deconstruction of a Corps of Engineers project. The House proposed no similar provision.

The conference agreement includes a provision proposed by the Senate concerning the Innovative Technology Loan Guarantee Program in the Energy Department. The House proposed no similar provision.

TITLE V

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

The conference agreement includes an additional appropriation of $2,936,000 for the National Security Council, as proposed by both the House and the Senate.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

The conference agreement provides an additional appropriation of $10,000,000 for the Federal Judiciary, as proposed by the Senate, available for transfer between Judiciary accounts to meet increased workload requirements resulting from immigration and other law enforcement initiatives. The House did not include funding for this purpose.

INDEPENDENT AGENCIES

FINANCIAL CRISIS INQUIRY COMMISSION

SALARIES AND EXPENSES

The conference report appropriates $8,000,000, to remain available until February 15, 2011, for the necessary expenses of the Financial Crisis Inquiry Commission established by section 5 of Public Law 111–21 (enacted on May 20, 2009). The Senate bill provided $4,000,000 for this purpose, appropriated to the Department of the Treasury for transfer to the Commission. Now that the authorization has become law, the conferees decided to make the appropriation directly to a new account for the Commission. In addition, the conference agreement makes the funds available through February 15, 2011, rather than through December 31, 2010 as proposed by the Senate, in order to improve consistency with the authorizing legislation. The House bill did not include funding for this new Commission.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

The conference agreement includes an additional appropriation of $10,000,000, as proposed by the Senate, for the Securities and Exchange Commission for investigation of securities fraud. The House bill did not include funding for this purpose.

GENERAL PROVISIONS—THIS TITLE

Section 501 of the conference report makes a technical correction to Public Law 110–428 relating to judicial survivors' annuities. This provision was proposed by the Senate; the House had no comparable language.

Section 502 of the conference report amends the appropriation of District of Columbia funds in the Financial Services and

General Government Appropriations Act, 2009 to incorporate any subsequent budget amendments adopted by the District of Columbia Council. This provision was proposed by the Senate; the House had no comparable language.

Section 503 of the conference report alters the set aside of not less than $3,000,000 in the fiscal year 2009 appropriation for the Federal Communications Commission, to make that amount available for developing a national broadband plan pursuant to the American Recovery and Reinvestment Act instead of for a State Broadband Data and Development matching grants program. This provision was proposed by the Senate; the House had no comparable language.

Section 504 of the conference report includes language proposed by the Senate amending the Federal Deposit Insurance Act so as to preempt certain state interest rate ceilings, effective through December 31, 2010. The House had no comparable provision.

PANDEMIC INFLUENZA

The conference agreement does not contain provisions proposed by the Senate making appropriations within the Executive Office of the President for pandemic influenza preparedness and response. Rather, this matter is addressed in the Labor-HHS-Education and State/Foreign Operations titles of the conference agreement, as in the House version of the bill.

TITLE VI

DEPARTMENT OF HOMELAND SECURITY

U.S. CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

The agreement provides $46,200,000 for U.S. Customs and Border Protection (CBP) Salaries and Expenses as proposed by the Senate. The House bill contained no similar funding. Of this, $6,200,000 shall be to care for and transport unaccompanied illegal alien children (UAC); $30,000,000 shall be to fund the hiring of up to 125 CBP Officers, as well as other personnel, equipment, facilities and operations costs for additional deployment to Southwest border ports of entry; and $10,000,000 shall be to procure competitively non-intrusive inspection equipment, all as described in the Senate report. The Secretary of Homeland Security shall submit an expenditure plan to the committees on Appropriations prior to obligating these funds, and not later than 30 days after the date of enactment of this Act.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

The agreement provides $5,000,000 for Air and Marine Interdiction, Operations, Maintenance, and Procurement as proposed by the Senate. The House bill contained no similar funding. The Secretary shall submit an expenditure plan to the Committees on Appropriations prior to obligating these funds, and not later than 30 days after the date of enactment of this Act.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

The agreement provides $66,800,000 for U.S. Immigration and Customs Enforcement (ICE) Salaries and Expenses as proposed by the Senate. The House bill contained no similar funding. Included in this total is $11,800,000 for increased costs of ICE to care for and transport UAC to the Department of Health and Human Services (HHS), pursuant to the requirements in the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (P.L. 110–457). In addition, the bill includes $55,000,000 for response to border security issues, as discussed in the Senate report. Prior to obligation of the funds, the Secretary shall submit an expenditure plan to the Committees on Appropriations not later than 30 days after the date of enactment of this Act.

The Department of Homeland Security (DHS) is directed, jointly with HHS, to brief the Committees on Appropriations no late than July 3, 2009, on the fiscal year 2009 costs to date for handling UAC pursuant to P.L. 110–457 and the estimated costs for the same activity in fiscal year 2010.

COAST GUARD

OPERATING EXPENSES

The agreement provides $139,503,000 for Coast Guard Operating Expenses as proposed by the Senate. The House bill contained $129,503,000 within the Navy Operations and Maintenance appropriation and no funding for maintenance of High Endurance Cutters. Of this total, $129,503,000 is for support of overseas contingency operations, and $10,000,000 is for addressing the High Endurance Cutter maintenance backlog. The Coast Guard is directed to provide a briefing by July 15, 2009, on how it plans to apply the cutter maintenance funds.

FEDERAL EMERGENCY MANAGEMENT AGENCY

STATE AND LOCAL PROGRAMS

The agreement provides $30,000,000 for State and Local Programs for Operation Stonegarden as proposed by the Senate. The House bill contained no similar funding.

GENERAL PROVISIONS—THIS TITLE

Section 601. The agreement includes and modifies a provision proposed by the House permitting the Coast Guard to issue a certificate of documentation for the drydock ALABAMA to engage in coastwise trade and waives certain sections of the Jones Act.

Section 602. The agreement includes a provision proposed by the House permitting the Coast Guard to issue a certificate of documentation for the vessel MARYLAND INDEPENDENCE to engage in coastwise trade and waives certain sections of the Jones Act. This authority is terminated if the vessel is conveyed or repairs or alterations are made to the vessel outside the United States.

(INCLUDING RECSISSION OF FUNDS)

Section 603. The agreement includes a provision proposed by the Senate rescinding and appropriating funds previously allocated to the State of Mississippi.

Section 604. The agreement includes a provision proposed by the Senate amending language under the heading Federal Emergency Management Agency, Management and Administration, Public Law 110–329.

Section 605. The agreement includes a provision proposed by the Senate permitting the Secretary to waive certain requirements of the Federal Fire Prevention and Control Act of 1974. The House bill contained a similar provision under the heading Federal Emergency Management Agency, Firefighter Assistance Grants.

Section 606. The agreement includes a provision proposed by the Senate regarding State-run case management programs related to Hurricanes Katrina and Rita.

Section 607. The agreement includes a provision proposed by the Senate that amends Section 552 of Public Law 110–161 pertaining to primary or secondary schools damaged by Hurricanes Katrina and Rita.

Section 608. The agreement includes a provision proposed by the Senate pertaining to Disaster Assistance Direct Loans made pursuant to P.L. 111–5 for FEMA–1791–DR.

Section 609. The agreement includes a new provision pertaining to debris removal and public assistance for damages associated with FEMA–1791–DR, FEMA–1792–DR, FEMA–1841–DR, AND FEMA–1838–DR.

DEPARTMENT OF THE INTERIOR

DEPARTMENT-WIDE PROGRAMS

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $50,000,000 as requested for wildfire suppression and emergency rehabilitation activities of the Department of the Interior, available only if other available funds will be exhausted imminently. If it enhances the efficiency or effectiveness of Federal wildland fire suppression activities, the Secretary of the Interior may transfer any of these funds to the Secretary of Agriculture for similar activities. The Committee notes that although wildfire suppression projections are challenging this early in the season, models and experience indicate that it is highly likely that existing available funds will not be sufficient if another fire season like the past three occurs.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $200,000,000 as requested for wildfire suppression and emergency rehabilitation activities of the Forest Service, available only if other available funds will be exhausted imminently. If it enhances the efficiency or effectiveness of Federal wildland fire suppression activities, the Secretary of Agriculture may transfer not more than $50,000,000 of these funds to the Secretary of the Interior for similar activities. The Committee notes that although wildfire suppression projections are challenging this early in the season, models and experience indicate that it is highly likely that existing available funds will not be sufficient if another fire season like the past three occurs.

GENERAL PROVISIONS—THIS TITLE

Sec. 701. The conference agreement includes a technical correction as proposed by the Senate that amends Public Law 111–8 concerning training of staff at the Agency for Toxic Substances and Disease Registry. The House had no similar provision.

The conference agreement does not include a provision proposed by the Senate that exempts youth conservation employment programs in the Department of the Interior and the Forest Service from Section 1606 of division A, title XVI of Public Law 111–5. The conferees have been assured by the Department of the Interior officials that they have legal authorities to conduct youth projects under the American Recovery and Reinvestment Act with appropriate entities, such as the Youth Conservation Corps and Public Lands Corps.

TITLE VIII

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES

REFUGEE AND ENTRANT ASSISTANCE

The conference agreement includes $82,000,000 for refugee and entrant assistance, as proposed by the Senate. The House proposed these funds within the Department of Defense, including transfer authority to other Federal agencies. The conferees intend that these funds be used for the care and custody of unaccompanied alien children, to allow the Office of Refugee Resettlement to implement the provisions of Public Law 110–457, the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008. The conferees direct the Department of Health and Human Services, in conjunction with the Department of Homeland Security, to provide a briefing to the Committees on Appropriations no later

than July 3, 2009 on the increased costs in fiscal year 2010 associated with implementing the TVPRA.

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $1,850,000,000 for pandemic influenza preparedness and response as proposed by the House. The Senate proposed $1,500,000,000 in the Executive Office of the President. Funding is available until expended, as proposed by the House, rather than until September 30, 2010 as proposed by the Senate.

The conference agreement concurs in the House recommendation and does not specify amounts within this appropriation for Federal government agencies outside of the Department of Health and Human Services (HHS). The Senate recommended a number of transfers to other Federal agencies.

The conferees recognize the high level of uncertainty associated with the current H1N1 influenza virus strain and other circulating flu viruses and the urgent need to provide increased resources to Federal, State, and local agencies on the frontlines of responding to disease outbreaks. Lessons learned from past influenza pandemics indicate that influenza can strike a community, affect many individuals, and then return with a vengeance to strike the community months later.

HHS has nearly exhausted all prior appropriated influenza pandemic funds to respond to the current H1N1 influenza outbreak. Supplemental funding is needed to continue to address this current outbreak, but also to prepare for the potential of future outbreaks, increased severity of the virus, or for a new flu strain to emerge. As such, this funding may be used for an array of pandemic influenza preparedness and response activities, including the development and purchase of vaccines, antiviral drugs, medical supplies and personal protective equipment, diagnostic and vaccine delivery equipment, for upgrading State and local public health capacity, and domestic and international surveillance. Additionally, funding may be used to support the activities for which prior funding was provided, but has been diverted to address the current outbreak.

As proposed by the House, the conference agreement includes bill language that permits the Secretary of HHS to transfer funding to other Federal agencies to be used to prepare for and respond to an influenza pandemic. Funds may also be transferred to the Covered Countermeasure Process Fund for the purpose of administering compensation claims for individuals who may experience adverse reactions caused by the administration or use of a covered countermeasure, such as vaccines and antiviral drugs. Such transfers shall be made in consultation with the Director of the Office of Management and Budget (OMB). Not later than 15 days prior to transferring any funds, the Secretary must notify the Committees on Appropriations of the House of Representatives and the Senate of the planned uses of the funds. The Senate did not propose similar language. Additionally, the conferees direct the Secretary to consult with the Director of OMB when making funding allocations within HHS.

Within the total, the conference agreement includes no less than $200,000,000 for the Centers for Disease Control and Prevention (CDC) as proposed by the House. The Senate did not include a similar provision. CDC is the lead Federal agency involved with detecting, preparing for, and responding to infectious disease outbreaks. Funding will be used for such activities as U.S. and global disease detection and surveillance, laboratory capacity and research, diagnostic capabilities, risk communication, rapid response, distribution of medical supplies and treatments from the Strategic National Stockpile, guidance development, and assistance to State and local governments.

Also within the total, the conference agreement includes no less than $350,000,000 for upgrading State and local capacity as proposed by the House. The Senate did not include a similar provision. State and local public health systems have been challenged by the economic downturn. These funds will be used to support State and local public health and emergency response infrastructure, such as workforce, laboratory capacity, public communications, and community mitigation guidance and planning.

As proposed by the House, the conferees request that the Secretary of HHS, together with the Director of CDC, examine HHS' response to the early stages of the H1N1 outbreak in Mexico and the laboratory confirmation process to ascertain whether improvements are needed in its current disease detection policies and procedures. HHS should submit a report to the Committees on Appropriations of the House of Representatives and the Senate no later than 90 days after the enactment of this Act. The Senate did not request a similar report.

As proposed by the House, the conferees direct the Secretary of HHS to provide monthly reports to the Committees on Appropriations of the House of Representatives and the Senate updating the status of actions taken and funds obligated in this and previous appropriations Acts for pandemic influenza preparedness and response activities. These reports should be provided no later than 15 days after the end of each month. Further, the Secretary shall include appropriations provided in this Act when preparing the semi-annual report to Congress on influenza pandemic preparedness spending. The Senate did not propose similar language.

Contingent emergency appropriation

The conference agreement includes an additional $5,800,000,000 as a contingent emergency appropriation to provide Federal, State, and local public health and emergency response agencies with resources to effectively respond should an escalation of the H1N1 virus or another emergent influenza virus require a national vaccination program. On June 2, 2009, the President submitted a request for $2,000,000,000 in contingent funds, plus authority to transfer and redirect Recovery Act and other prior appropriations for this purpose. The conferees agree that additional, substantial, and flexible resources should be provided to respond to this emerging situation; however, the conferees believe they should be provided in a more efficient manner.

Moreover, to ensure that these resources are used for urgent needs, with oversight and accountability, this funding is available for obligation only if the President provides written notice to Congress that emergency funds are required to address critical needs related to emerging influenza viruses. Funds may be transferred to other appropriation accounts of the Department of Health and Human Services and other Federal agencies in consultation with the Director of the Office of Management and Budget. Further, none of the funds provided through this contingent emergency appropriation shall be made available for obligation until 15 days following the submittal of detailed obligation plans to the Committees on Appropriations of the House of Representatives and the Senate. Such plans shall identify the amounts and the activities for which funds are specified by the President, shall be prepared by HHS or any other Federal agency receiving funds, and shall be coordinated with the Executive Office of the President.

GENERAL PROVISIONS—THIS TITLE

(TRANSFER OF FUNDS)

Sec. 801. The conference agreement includes a provision as proposed by the Senate to provide the Department of Labor expanded transfer authority for administrative funding appropriated in the American Recovery and Reinvestment Act. The House bill did not include a similar provision.

Sec. 802. The conference agreement includes a provision as proposed by the House to make a technical correction to the fiscal year 2009 Omnibus Appropriations Act to permit the higher foster care children adoption incentive payments to States authorized by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110–351). The Senate bill did not include a similar provision.

Sec. 803. The conference agreement includes bill language, not in either House or Senate bills, to enable the Department of Education to expedite the awarding of American Recovery and Reinvestment Act (ARRA) funding available for the Centers for Independent Living program and allow multiple year awards. The conferees expect that this authority will help the Department begin to make ARRA awards under this program in the current fiscal year and request monthly reports to the Committees on Appropriations of the House of Representatives and the Senate on actions taken to make all awards under this program.

(INCLUDING TRANSFER OF FUNDS)

Sec. 804. The conference agreement includes a provision that permits the Secretary of Education to transfer up to $10,260,000 to the Career, Technical, and Adult Education account for carrying out Adult Education State Grants from amounts that would otherwise lapse at the end of fiscal year 2009, with notification to the Committees on Appropriations. The Senate proposed language authorizing a transfer of up to $17,678,270 for this purpose, while the House bill did not include similar language.

TITLE IX

Legislative Branch

U.S. CAPITOL POLICE

GENERAL EXPENSES

The agreement includes $71,606,000 for the acquisition and installation of a new radio system for the U.S. Capitol Police as proposed by both the House and the Senate. this is the same amount as the supplemental request. The Government Accountability Office will support the Capitol Police in the execution of this critical project and have been requested by the House and Senate Appropriations Committees to provide regular updates of progress in meeting critical system deadlines and performance standards.

The agreement accepts the Senate structure of the appropriations language which deletes a proviso included in the House bill and the supplemental request that would have placed $6,500,000 of this amount in a contingency reserve.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

The agreement includes $2,000,000 as proposed by the Senate for the Congressional Budget Office. These funds remain available until September 30, 2010. The funding provides increased resources to expedite CBO's evaluation and scoring of major legislation expected to be considered during the remainder of fiscal year 2009 and will accelerate staffing increases proposed in the fiscal year 2010 budget request. These funds were not in the supplemental request or the House bill.

SEC. 901—GENERAL PROVISION

The agreement does not include a general provision proposed by the Senate related to Committee funding. The House included no similar language.

TITLE X

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSION)

The conferees agree to provide $1,326,231,000 for Military Construction, Army, instead of $1,407,231,000 as proposed by the House and $1,278,731,000 as proposed by the Senate. The conferees also recommend a rescission of $143,242,000 from a prior year appropriation due to the cancellation of military construction projects in Iraq. The agreement includes a provision as proposed by the Senate to require a prefinancing statement for each project in Afghanistan be submitted to NATO before funds can be obligated or expended. The funds are provided as follows:

Location	Project description	Request ($000)	Conference agreement ($000)
CO: Fort Carson	Child Development Center	11,200	11,200
CO: Fort Carson	Child Development Center	11,500	11,500
KY: Fort Knox	CDC Connector	1,100	1,100
MS: Mississippi AAP	Hurricane Damage Repair		49,000
NC: Fort Bragg	Warrior in Transition Complex	88,000	88,000
TX: Fort Bliss	Child Development Center (additional funds)	4,700	4,700
TX: Fort Bliss	Child Development Center (additional funds)	3,900	3,900
TX: Fort Bliss	Child Development Center (additional funds)	4,700	4,700
TX: Fort Bliss	Child Development Center	14,200	14,200
TX: Fort Hood	Warrior in Transition Complex	64,000	64,000
TX: Fort Sam Houston	Warrior in Transition Complex	87,000	87,000
VA: Fort Belvoir	Warrior in Transition Complex	76,000	76,000
WA: Fort Lewis	Warrior in Transition Complex	110,000	110,000
Afghanistan: Airborne	Troop Housing	5,600	5,600
Afghanistan: Altimur	Troop Housing	3,500	3,500
Afghanistan: Bagram AB	SOF Alpha Ramp Facilities	10,800	10,800
Afghanistan: Bagram AB	Power Plant Expansion	33,000	33,000
Afghanistan: Bagram AB	Drainage System, Phase 1	18,500	18,500
Afghanistan: Bagram AB	Troop Housing, Phase 2	20,000	20,000
Afghanistan: Bagram AB	Troop Housing, Phase 3		22,000
Afghanistan: Dwyer	Contingency Housing, Phase 1		8,600
Afghanistan: Dwyer	Contingency Housing, Phase 2		6,900
Afghanistan: Frontenac	Contingency Housing		3,800
Afghanistan: Gardez	Contingency Housing		8,400
Afghanistan: Garmsir	Medical Facility	2,000	2,000
Afghanistan: Helmand	Brigade Headquarters	7,800	7,800
Afghanistan: Jalalabad	Contingency Housing		6,900
Afghanistan: Joyce	Troop Housing	5,200	5,200
Afghanistan: Kandahar	Troop Housing, Phase 1	8,700	8,700
Afghanistan: Kandahar	Troop Housing, Phase 2		4,250
Afghanistan: Kandahar	South Park Drainage, Phase 1	16,500	16,500
Afghanistan: Kandahar	Utilities, Phase 1	27,000	27,000
Afghanistan: Kandahar	Medical Facility	1,950	1,950
Afghanistan: Kandahar	Rotary Wing Ramps and Taxiway, Phase 2	49,000	49,000
Afghanistan: Kandahar	Command & Control Headquarters Facility	23,000	23,000
Afghanistan: Maywand	Troop Housing	10,800	10,800
Afghanistan: Maywand	Rotary Wng Ramps and Taxiway, Phase 1	26,000	26,000
Afghanistan: Maywand	Fuel Distribution System	8,000	8,000
Afghanistan: Shank	Fuel Distribution System	8,000	8,000
Afghanistan: Shank	Troop Housing, Phase 1	7,800	7,800
Afghanistan: Shank	Troop Housing, Phase 2		8,600
Afghanistan: Shank	Aviation Hangar & Maintenance Facilities	11,200	11,200
Afghanistan: Shank	Brigade Headquarters	7,800	7,800
Afghanistan: Shank	Rotary Wing Ramps and Taxiways, Phase 2	24,000	24,000
Afghanistan: Sharana	Atiation Hangar & Maintenance Facilities	11,200	11,200
Afghanistan: Sharana	Rotary Wing Ramps and Taxiways, Phase 1	39,000	39,000
Afghanistan: Sharana	Rotary Wing Ramps and Taxiways, Phase 2	29,000	29,000
Afghanistan: Tarin Kowt	Rotary Wing Ramps and Taxiways, Phase 1	26,000	26,000
Afghanistan: Tarin Kowt	Fuel Distribution System	8,000	8,000
Afghanistan: Tombstone/Bastion	Role 2 Medical Facility	4,200	4,200
Afghanistan: Tombstone/Bastion	Troop Housing	8,700	8,700
Afghanistan: Tombstone/Bastion	Troop Housing, Phase 2	5,200	5,200
Afghanistan: Tombstone/Bastion	Troop Housing, Phase 3		3,250
Afghanistan: Tombstone/Bastion	Troop Housing, Phase 4		3,800
Afghanistan: Tombstone/Bastion	Rotary Wing Ramps and Taixways, Phase 2	49,000	49,000
Afghanistan: Tombstone/Bastion	Aviation Hangar & Maintenance Facilities	11,200	11,200
Afghanistan: Tombstone/Bastion	Brigade Headquarters	7,800	7,800
Afghanistan: Tombstone/Bastion	Fuel Distribution System	8,000	8,000
Afghanistan: Wolverine	Troop Housing	8,900	8,900
Afghanistan: Various Locations	CIED Road, Kapisa Supply Route	68,000	52,000
Germany: Ansbach	Child Development Center (Storck Barracks)	9,800	9,800
Germany: Ansbach	Child Development Center (Katterbach)	13,300	13,300
Germany: Landstuhl	Child Youth Services Center	5,500	5,500
Italy: Vicenza	Child Youth Services Center	12,000	12,000
Netherlands: Schinnen	Child Development Center (Emma Mine)	11,400	11,400
Worldwide: Unspecified	Planning and Design	81,081	68,081
Total		1,229,731	1,326,231

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

The conferees agree to provide $235,881,000 for Military Construction, Navy and Marine Corps as proposed by the House, instead of $243,083,000 as proposed by the Senate. The funds are provided as follows:

Location	Project description	Request ($000)	Conference agreement ($000)
CA: Camp Pendleton	Child Development Center	15,420	15,420
CA: Camp Pendleton	Marine Resources and Recovery Center	24,990	24,990
CA: Camp Pendleton	Wounded Warrior Battalion HQ	9,900	9,900
DC: Washington Navy Yard	Child Development Center	9,340	9,340
HI: Pearl Harbor NS	Child Development Center	32,280	32,280
MD: Annapolis NSA	Child Development Center Expansion	9,720	9,720
MD: Patuxent River NAS	Child Development Center	13,150	13,150
MD: Patuxent River NAS	Child Development Center Addition	3,850	3,850
NC: Camp Lejeune	Child Development Center	13,970	13,970
NC: Camp Lejeune	Marine Resource and Recovery Center	24,960	24,960
NC: Camp Lejeune	Wounded Warrior Battalion HQ	3,601	3,601
NC: New River MCAS	Child Development Center Addition	2,670	2,670
SC: Parris Island MCRD	Child Development Center	14,670	14,670
VA: Little Creek NAB	Child Development Center	15,360	15,360
VA: Quantico MCB	Child Development Center	17,440	17,440
WA: Whidbey Island NAS	Child Development Center	13,560	13,560

Location	Project description	Request ($000)	Conference agreement ($000)
Worldwide: Unspecified	Planning and Design	14,150	11,00
Total		239,031	235,881

MILITARY CONSTRUCTION, AIR FORCE

The conferees agree to provide $281,620,000 for Military Construction, Air Force, instead of $279,120,000 as proposed by the House and $265,470,000 as proposed by the Senate. The agreement includes a provision as proposed by the Senate to require a prefinancing statement for each project in Afghanistan be submitted to NATO before funds can be obligated or expended. The funds are provided follows:

Location	Project description	Request ($000)	Conference agreement ($000)
Afghanistan: Bagram AB	CAS Apron	32,000	32,000
Afghanistan: Kandahar	Strategic Airlift Apron	84,000	84,000
Afghanistan: Tarin Kowt	Airlift Apron	9,400	9,400
Afghanistan: Tarin Kowt	Runway	18,500	18,500
Afghanistan: Tombstone/Bastion	CAS Apron	43,000	43,000
Afghanistan: Tombstone/Bastion	Fuels Operation & Storage	2,250	2,250
Afghanistan: Tombstone/Bastion	Expand Munitions Storage Area	51,000	51,000
Germany: Spangdahlem AB	Child Development Center	11,400	11,400
Qatar: Al Udeid AB	Temporary West Munitios Storage Area	15,500	—
Qatar: Al Udeid AB	Relocate South Munitions Storage Area	—	18,000
Worldwide: Unspecified	Planning and Design	13,920	12,070
Total		280,970	281,620

MILITARY CONSTRUCTION, DEFENSE-WIDE

The conferees agree to provide $661,552,000 for Military Construction, Defense-Wide, instead of $1,086,968,000 as proposed by the House and $181,500,000 as proposed by the Senate. Within the amount, the conferees agree to provide $488,000,000 for construction of hospitals, $169,500,000 for construction of a National Security Agency data center, and $4,052,000 for construction to support the Vision Center of Excellence at the National Naval Medical Center, Bethesda. The conferees also agree to include language as proposed by the Senate to authorize the full cost of construction of the data center at $1,589,500,000.

National Security Agency Data Center.—The conferees agree to incrementally fund and fully authorize the National Security Agency Data Center at Camp Williams, Utah. The conferees direct the National Security Agency to submit to the Committees on Appropriations of both Houses of Congress a quarterly report on the progress of design and construction of the project, beginning with the end of the fourth quarter of fiscal year 2009 and continuing through the quarter of project completion. This report shall include, at minimum, the amounts of obligated and expended to date, the percentage of authorized construction completed, an updated construction and equipment installation timetable, and proposed changes, if any, to the submitted form 1391. The Agency is also directed to promptly notify the committees of any material changes in requirements, cost, or scope. The report and any associated notifications may be submitted in classified form if necessary.

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

The conferees agree to provide $100,000,000 for the North Atlantic Treaty Organization Security Investment Program as proposed by both the House and the Senate.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

The conferees agree to provide $263,300,000 as proposed by the House instead of $230,900,000 as proposed by the Senate.

GENERAL PROVISIONS—THIS TITLE

The conferees agree to include a modified provision (Sec. 1001) as proposed by the Senate related to the Armed Forces Institute of Pathology.

The conferees do not include a provision proposed by the Senate related to the designation of funds in this title.

The conferees agree to include a provision (Sec. 1002) to amend title 38 to provide for certain education benefits to the children of a member of the Armed Forces who dies while on active duty.

TITLE XI

INTRODUCTION

The conference agreement provides $9,700,213,000 for Department of State, Foreign Operations, and Related Programs, which is $2,652,069,000 above the request.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

The conference agreement includes $997,890,000 for Diplomatic and Consular Programs, to support operations and security requirements for Afghanistan, Pakistan, and Iraq; and to address increased requirements for global activities, which is $403,575,000 above the request. Within the amount provided, $146,358,000 is for worldwide security protection. The funds made available under this heading are to be allocated according to the following table and are subject to the terms and conditions of section 1103 (a) and (b) concerning allocations and notifications:

DIPLOMATIC AND CONSULAR PROGRAMS

[Budget authority in thousands of dollars]

Activity	Request	House	Senate	Conference
Afghanistan				
Operations	123,900	169,800	173,000	159,100
Air Mobility (non-add)	[17,000]	—	[57,000]	[42,000]
Public Diplomacy (non-add)	[22,100]	[33,000]	[31,000]	[32,100]
Worldwide Security Protection	101,545	121,545	101,545	116,545
Other Agencies	137,600	157,600	135,629	137,600
Subtotal—Afghanistan	363,045	448,945	410,174	413,245
Pakistan				
Operations	36,462	36,462	36,462	36,462
Public Diplomacy (non-add)	[30,900]	[30,900]	[30,900]	[30,900]
Worldwide Security Protection	9,078	9,078	9,078	9,078
Subtotal—Pakistan	45,540	45,540	45,540	45,540
Iraq				
Operations and Security	150,000	486,000	150,000	486,000
Public Diplomacy (non-add)	[900]	[900]	[900]	[900]
Subtotal—Iraq	150,000	486,000	150,000	486,000
Global Programs				
Envoys and Special Representatives—Operations	28,370	28,370	28,370	28,370
Public Diplomacy—Arab Youth Programs	0	0	4,000	4,000
Worldwide Security Protection	7,360	7,360	7,360	20,735
Subtotal—Global Programs	35,730	35,730	39,730	53,105
Total, D&CP	594,315	1,016,215	645,444	997,890

The conferees require prior notification of funds appropriated in this title for other Federal agencies, as proposed by the Senate, and direct that with respect to these interagency funds, the spending plan required in section 1104 of this title will be developed in consultation with the heads of the relevant Federal agencies, as proposed by the House.

Afghanistan.—The conference agreement includes $159,100,000 for Afghanistan operations, including $42,000,000 for Department of State air mobility requirements. This includes $25,000,000 for the procurement of additional air wing assets contained in the fiscal year 2010 budget request.

The conference agreement includes language in section 1102 requiring that the uses and oversight of aircraft purchased or leased by the Department of State and USAID shall be coordinated under the authority of the Chief of Mission in Afghanistan. The conferees include this language, modified from the Senate, to ensure oversight, coordination and efficient use of resources.

The conferees direct the Secretary of State to submit a report to the Committees on Appropriations not later than 90 days after enactment of this Act on the steps taken to ensure the interoperability of aircraft communications equipment and procedures for the use of air assets by the three primary agencies in Afghanistan—the Department of State, the United States Agency for International Development (USAID) and the Department of Defense.

Iraq.—The conference agreement includes $486,000,000 for Iraq operations, of which $336,000,000 is for activities contained in the fiscal year 2010 budget request to assist in the transition to regularize diplomatic operations.

The conferees require that the Secretary of State submit to the Committees on Appropriations a report on the facilities lease plan for Iraq not later than 90 days after enactment of this Act, as proposed by the House, and direct the Chief of Mission in Iraq to conduct a right-sizing exercise, as proposed by the Senate.

Global Operations.—The conferees require the Secretary of State to submit a report to the Committees on Appropriations not later than 180 days after enactment of this Act accounting for the staff positions and resources dedicated to supporting special envoys, special representatives, coordinators, and similar positions and direct that any transfer of these positions to other bureaus and offices within the Department of State, or any reorganization affecting these positions, is subject to the regular notification procedures of the Committees on Appropriations, as proposed by the House. In addition, funding under this heading for global operations should be provided to support the Special Envoy for Sudan and the special representative and policy coordinator for Burma.

Public Diplomacy.—The conference agreement includes the transfer of up to $10,000,000 to ''International Broadcasting Operations'' of the Broadcasting Board of Governors for broadcasting activities to the Pakistan-Afghanistan border region, as proposed by the Senate and similar to that proposed by the House. The conferees recommend that up to $4,000,000 of the funds appropriated in this title for public diplomacy programs be made available through an open and competitive process for new Arabic language television programs for broadcast to Arabic-speaking countries, as proposed by the Senate.

Personnel Report.—The conferees direct the Secretary of State to submit a report to the Committees on Appropriations not later than 45 days after enactment of this Act on the promotion process at the Department as it relates to any preferential consideration given for service in Iraq, Afghanistan, and Pakistan as compared to other hardship posts, as proposed by the Senate.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $24,122,000 for Office of Inspector General, which is $16,921,000 above the request. Of the funds provided under this heading, the conferees include language transferring $7,200,000 to the Special Inspector General for Afghanistan Reconstruction (SIGAR) and $7,000,000 for the Special Inspector General for Iraq Reconstruction (SIGIR). The balance of the funds, $9,922,000, is for oversight requirements of the Inspector General of the Department of State, as proposed by the House and similar to that proposed by the Senate.

The conference agreement requires that the Inspector General of the United States Department of State and the Broadcasting Board of Governors, the SIGIR, the SIGAR, and the USAID Inspector General coordinate and integrate the programming of funds made available in fiscal year 2009 for oversight of programs in Afghanistan, Pakistan and Iraq, and direct the Secretary of State to submit to the Committees on Appropriations the annual comprehensive audit plan for Southwest Asia developed by the Southwest Asia Joint Planning Group in accordance with section 842 of Public Law 110–181, as proposed by the House.

The conference agreement also extends to the SIGAR the temporary hiring authority of section 3161 of title 5 of the United States Code, as proposed by both the House and Senate.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

The conference agreement includes $921,500,000 for urgent embassy security, construction, and maintenance costs, which is $22,772,000 above the request. The funds made available under this heading are to be allocated according to the following table and are subject to the terms and conditions of section 1103 (a) and (b) concerning allocations and notifications:

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

[Budget authority in thousands of dollars]

Activity	Request	House	Senate	Conference
Afghanistan:				
Land Acquisition and Site Development	87,028	87,028	10,000	20,000
Subtotal—Afghanistan	87,028	87,028	10,000	20,000
Pakistan:				
Islamabad—Construction/Renovation	736,500	736,500	735,500	735,500
Lahore—Acquisition, Mitigation and Development	29,600	29,600	29,500	29,500
Peshawar—NOB and Housing	40,100	131,000	40,000	131,000
Subtotal—Pakistan	806,200	897,100	805,000	896,000
Global Programs:				
Mobile Mail Screening Units	5,500	5,500	5,500	5,500
Subtotal—Global Programs	5,500	5,500	5,500	5,500
Total, ESCM	898,728	989,628	820,500	921,500

Civilian Surge.—The conferees urge the Secretary of State to ensure that both office and housing plans accommodate the surge in civilian personnel under the recently announced strategy for Afghanistan and Pakistan. The conferees direct the Secretary of State to ensure that the spending plan required in section 1104 includes detailed information about facilities plans in Afghanistan and Pakistan and how such plans are integrated into the current strategy, as proposed by both the House and Senate.

Property Acquisition in Afghanistan.—The conferees are concerned about the request for the acquisition of land for the expansion of the United States Mission in Afghanistan and direct the Department of State to continue negotiations with the Government of Afghanistan concerning land acquisition for this purpose and notify the Committees on Appropriations on the outcome of these negotiations prior to the obligation of funds for such purpose.

Pakistan facilities.—The conference agreement includes $896,000,000 for the construction of safe and secure facilities in Pakistan, of which $90,900,000 is contained in the fiscal year 2010 request for housing and offices in Peshawar, as proposed by the House.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

The conference agreement includes $721,000,000 for Contributions for International Peacekeeping Activities (CIPA), which is $115,900,000 below the request. Funding for programs and activities for Somalia is included under the heading ''Peacekeeping Operations.''

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

FUNDS APPROPRIATED TO THE PRESIDENT

OPERATING EXPENSES

The conference agreement includes $157,600,000 for Operating Expenses, which is $5,000,000 above the request. Of the total, $140,000,000 is for Afghanistan operations (including $40,000,000 for aircraft operations); $7,600,000 is for Pakistan operations; and $10,000,000 is for West Bank and Gaza operations.

The conferees direct the USAID Administrator to ensure that the spending plan required in section 1104 includes information about the proposed additional personnel and

operating costs for USAID operations in Afghanistan and Pakistan.

Afghanistan Airwing.—USAID should undertake efforts to ensure that its airwing is interoperable and its procedures are consistent with those of the Department of State and the Department of Defense.

Personnel Report.—The conferees direct the USAID Administrator to submit a report to the Committees on Appropriations not later than 45 days after enactment of this Act on USAID's promotion process as it relates to any preferential consideration given for service in Iraq, Afghanistan, and Pakistan as compared to other hardship posts, as proposed by the Senate.

CAPITAL INVESTMENT FUND

The conference agreement includes $48,500,000 for Capital Investment Fund, which is the same as the request.

OFFICE OF INSPECTOR GENERAL

The conference agreement includes $3,500,000 for Office of Inspector General for increased oversight of programs in Afghanistan and Pakistan, which is $3,500,000 above the request. In addition, the agreement includes language under the heading ''Economic Support Fund'' transferring $2,000,000 to the Office of Inspector General for oversight of USAID activities in the West Bank and Gaza.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

GLOBAL HEALTH AND CHILD SURVIVAL

The conference agreement includes $150,000,000 for Global Health and Child Survival, which is $150,000,000 above the request.

Global Pandemic Preparedness and Response.—The conference agreement provides $50,000,000 to support global pandemic preparedness and response, similar to that proposed by the House. In addition, the conferees expect additional funds to be transferred to USAID for global pandemic preparedness and response activities from the amounts provided under title VIII of this Act.

The conferees include language, proposed by the House, providing authority to the President to use funds appropriated under the headings ''Global Health and Child Survival'', ''Development Assistance'', ''Economic Support Fund'', and ''Millennium Challenge Corporation'' to combat an H1N1 influenza pandemic, if he determines that the human-to-human transmission of the virus is virulent, efficient and sustained, severe, spreading internationally to multiple regions, and has been designated by the World Health Organization (WHO) to be at the highest phase of the Global Influenza Pandemic Alert. The conferees are aware of ongoing efforts to clarify the WHO's pandemic definition and reiterate that this authority is only for use if H1N1 is a severe global threat. In the event that the President exercises this authority, the conferees expect the Office of Management and Budget to seek replenishments for any funds reprogrammed from these accounts.

Global Fund.—The conference agreement also includes $100,000,000 for an additional United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria, as proposed by the House. The Senate had proposed $50,000,000.

DEVELOPMENT ASSISTANCE

The conference agreement includes no funding for Development Assistance, which is $38,000,000 below the request. Funding for Kenya is provided under the ''Economic Support Fund'' heading.

Sri Lanka.—The conferees direct the Secretary of State to submit a report to the Committees on Appropriations not later than 45 days after enactment of this Act detailing incidents during the conflict in Sri Lanka that may constitute violations of international humanitarian law or crimes against humanity, and, to the extent practicable, identifying the parties responsible.

INTERNATIONAL DISASTER ASSISTANCE

The conference agreement includes $270,000,000 for International Disaster Assistance, which is $40,000,000 above the revised request, of which not less than $55,000,000 is intended to meet the growing needs of internally displaced persons in Pakistan. The balance of funds is available to meet basic needs of internally displaced persons in Africa, the Middle East, and South and Central Asia, and to respond to other humanitarian crises.

The conferees urge USAID and the Department of State to ensure the provision of humanitarian assistance to those displaced in Sri Lanka. In addition, the conferees encourage the Secretary of State and the USAID Administrator to support, through other relevant assistance accounts, programs that increase and integrate the participation of Tamils in Sri Lankan society and foster reconciliation between ethnic Tamil and Sinhalese communities.

ECONOMIC SUPPORT FUND

The conference agreement includes $2,973,601,000 for Economic Support Fund, which is $30,899,000 above the revised request. Funds made available under the heading are to be allocated according to the following table and are subject to the terms and conditions of section 1103 (a) and (b) concerning allocations and notifications:

ECONOMIC SUPPORT FUND

[Budget authority in thousands of dollars]

Country/program and activity	Request	House	Senate	Conference
Countries				
Afghanistan:				
Afghan Civilian Assistance Program	0		11,000	12,000
Afghan Reconstruction Trust Fund	85,000		115,000	115,000
National Solidarity Program (non-add)	[20,000]	[70,000]	[70,000]	[70,000]
Agriculture	85,000		100,000	100,000
Alternative Development	55,000		65,000	65,000
Cross Border Development Program (non-add)	0		[10,000]	[10,000]
Widows Assistance	0		5,000	5,000
Women NGOs	0		30,000	30,000
Capacity Building (non-add)	0		[5,000]	[5,000]
Program Support (non-add)	0		[25,000]	[25,000]
Subtotal, Allocated	225,000	0	326,000	327,000
Unallocated	614,000	839,000	540,000	534,000
Subtotal, Afghanistan	839,000	839,000	866,000	861,000
Pakistan:				
Democracy Programs			10,000	10,000
Humanitarian Assistance/Protection for Vulnerable Populations	8,000		50,000	125,000
Baluchistan and East Indus River Development Programs			5,000	5,000
Cross Border Development Program (non-add)			[10,000]	[10,000]
Subtotal, Allocated Pakistan	8,000	0	65,000	140,000
Unallocated	551,500	529,500		399,000
Subtotal, Pakistan	559,500	529,500	439,000	539,000
Iraq:				
Community Action Program (CAP)	35,000		50,000	50,000
Democracy and Civil Society	112,000		118,000	118,000
USIP (non-add)		[7,000]		[7,000]
Iraq Cultural Antiquities	0		2,000	2,000
Marla Fund	3,500		10,000	10,000
Targeted Stability Programs	0		20,000	15,000
Widows Assistance	5,000		5,000	5,000
Subtotal, Allocated	155,500	0	205,000	200,000
Unallocated	293,500	442,000	234,000	239,000
Subtotal, Iraq	449,000	449,000	439,000	439,000
West Bank and Gaza	556,000	556,000	556,000	551,000
Subtotal, West Bank and Gaza	556,000	556,000	556,000	551,000
Other Countries				
Burma	13,000	13,000	13,000	13,000
Democratic Republic of the Congo	0	0	10,000	10,000
Egypt	0	50,000	0	50,000
Jordan	0	100,000	150,000	150,000
Kenya	0	18,000	0	35,000
North Korea	95,000	0	0	0
Somalia	0	10,000	10,000	10,000

ECONOMIC SUPPORT FUND—Continued

[Budget authority in thousands of dollars]

Country/program and activity	Request	House	Senate	Conference
Sudan	0	15,000	0	10,000
Yemen	0	0	15,000	10,000
Zimbabwe	45,000	28,000	45,000	40,000
Subtotal, Other Countries	153,000	234,000	243,000	328,000
Program				
Assistance to Developing Countries Affected by the Global Financial Crisis	448,000	300,000	285,000	255,601
Subtotal, Program	448,000	300,000	285,000	255,601
Total—ESF	3,004,500	2,907,500	2,828,000	2,973,601

Africa

Democratic Republic of the Congo (DRC).—The conference agreement includes $10,000,000 for programs and activities to assist victims of gender-based violence in the DRC.

Somalia.—The conference agreement includes $10,000,000 to support programs to provide employment opportunities for youth and to support capacity building of governmental institutions and civil society organizations to promote good governance.

East Asia and Pacific

Burma.—The conference agreement includes $13,000,000 for assistance for Burma, of which $10,000,000 is for continuing humanitarian assistance to Cyclone Nargis-affected areas inside Burma and $3,000,000 is for humanitarian assistance for refugees, migrants in Thailand, and internally displaced persons. The conferees direct the Department of State and USAID to ensure that no assistance flows to or through the Burmese government, its bureaucracy, or regime-affiliated organizations, such as government-organized NGOs.

The conferees direct the Comptroller General of the United States to conduct an assessment of the assistance provided by the United States in response to Cyclone Nargis in Burma, as proposed by the Senate, as well as an assessment of the methods of delivery, effectiveness, and accountability of humanitarian and development assistance for Burma from other donors.

The conferees direct the Secretary of State to submit a report to the Committees on Appropriations not later than 30 days after enactment of this Act that details the findings and recommendations of the Department of State's review of United States policy toward Burma.

Near East

Iraq.—The conference agreement includes $439,000,000 for assistance for Iraq. The conferees direct the Department of State and USAID to clarify to the Committees on Appropriations the funding streams for democracy and governance program implementers in the fiscal year 2010 budget request.

The conference agreement includes $2,000,000 for the preservation of Iraqi cultural antiquities to be administered by the Ambassador's Fund for Cultural Preservation, and directs the Department of State to consult with the Committees on Appropriations prior to the obligation of funds for these activities.

The conferees are concerned about the treatment of women in Iraq, and urge the Department of State and USAID to continue efforts to encourage the incorporation of women in stabilizing Iraq and creating its government institutions. The conferees are also concerned about the plight of women and religious minorities, including Iraqi Christians, amongst displaced and refugee populations and urges that programs of support for displaced and refugee populations take into account the needs of these minority groups.

Jordan.—The conference agreement includes $150,000,000 for assistance for Jordan to help mitigate the impact of the global economic crisis including for health, education, water and sanitation, and other impacts resulting from refugee populations in Jordan.

West Bank and Gaza.—The conference agreement includes not more than $551,000,000 for economic and humanitarian assistance for the West Bank and Gaza, which is $5,000,000 below the request. The conferees note that $5,000,000 for USAID admininstrative expenses are included under the heading ''Operating Expenses''. Of the amount provided, up to $200,000,000 is available for cash transfer assistance to the Palestinian Authority in the West Bank. The conferees continue the prohibition on salaries for personnel of the Palestinian Authority located in Gaza. The conferees continue all terms and conditions of division H of Public Law 111–8 with respect to assistance for the West Bank and Gaza.

Yemen.—The conference agreement includes $10,000,000 for assistance for Yemen to support education and other programs and activities administered by USAID, consistent with the Tribal Engagement Plan.

South and Central Asia

Afghanistan.—The conference agreement includes $861,000,000 for Afghanistan, and provides that not less than $150,000,000 appropriated in fiscal year 2009 for assistance for Afghanistan under the headings ''Economic Support Fund'' and ''International Narcotics Control and Law Enforcement'' shall be made available to support programs that directly address the needs of Afghan women and girls. The conferees direct USAID and the Special Envoy for Afghanistan and Pakistan to consult with the Department of State's Ambassador-at-Large for Global Women's Issues concerning the use of these funds. The conferees direct USAID to increase its support for Afghan women's organizations that address the needs and rights of Afghan women and girls. The conference agreement provides not less than $5,000,000 for capacity building for Afghan women-led nongovernmental organizations, and not less than $25,000,000 to support programs and activities of such organizations, including to provide legal assistance and training for Afghan women and girls about their rights, and to promote women's health (including mental health), education, and leadership.

The conferees also direct that not less than $70,000,000 shall be made available for the National Solidarity Program in Afghanistan.

Pakistan.—The conference agreement includes $539,000,000 for assistance for Pakistan. The conferees recognize that funds may be considered for direct budget support for the Government of Pakistan, and direct that a bilateral agreement be in place prior to the provision of any direct budget support. Such an agreement should be structured to provide maximum accountability and oversight, and should contain conditions for disbursements of funds and detailed monitoring and reporting requirements. Funds should be deposited in a separate, traceable account and be allocated toward operations in specific sectors. The Secretary of State is directed to consult with the Committees on Appropriations prior to the provision of any budget support, including on the amounts, uses and oversight of such funds as well as on the bilateral agreement.

The conferees intend that the majority of the $399,000,000 in unallocated assistance for Pakistan be used to support programs in the Federally Administered Tribal Areas and the North-West Frontier Province to counter the influence of violent extremists through local initiatives, including infrastructure, health, education, governance, rule of law, and employment opportunities. USAID's Office of Transition Initiatives should be utilized to the maximum extent practicable in implementing such programs.

The conferees direct the USAID Administrator to consult with the Committees on Appropriations on the use of up to $5,000,000 to establish and implement a program in Pakistan modeled on the Afghan Civilian Assistance Program, to assist families and communities that suffer losses as a result of the military operations.

The conferees also direct the Secretary of State to submit a report not later than 180 days after enactment of this Act detailing a multi-year strategy to promote democracy and good governance in Pakistan, including funding requirements to implement such a strategy.

Cross Border Programs.—The conferees recommend up to $20,000,000 from within the amounts provided for Afghanistan and Pakistan for a new cross border stabilization and development program between Afghanistan and Pakistan or between either country and the Central Asian republics to strengthen governance and the rule of law, enhance access to media, support small-scale energy development, create educational and employment opportunities particularly for Afghan and Pakistani youth, and promote regional cooperation, stability, and security. The Special Representative for Afghanistan and Pakistan at the Department of State shall administer these funds, in consultation with USAID and the Department of Defense.

Other

Global Financial Crisis.—The conference agreement includes $255,601,000 for assistance for vulnerable populations in developing countries affected by the global financial crisis. The Department of State and USAID are directed to report to the Committees on Appropriations not later than 45 days after enactment of this Act and prior to the obligation of funds on implementation of this program, including on the transfer of funds to the Overseas Private Investment Corporation and to the Development Credit Authority. The report should include detailed information on the programming of funds and the results of a review, and reprogramming, if appropriate, of existing USAID programs in targeted countries.

In addition, the conferees direct that funding provided to the Millennium Challenge Corporation (MCC) in prior acts may be reprogrammed to mitigate the impact of the global financial crisis in MCC compact or threshold countries.

ASSISTANCE FOR EUROPE, EURASIA AND CENTRAL ASIA

The conference agreement includes $272,000,000 for Assistance for Europe, Eurasia and Central Asia, of which $242,000,000 is for assistance for Georgia, and $30,000,000 is for assistance for the Kyrgyz Republic to improve air traffic control and safety, as proposed by the Senate, which is $29,500,000 above the request. The conference agreement includes permissive authority to expand the availability of funds to other Eurasian countries allowing flexibility to the Department of State to address unanticipated events.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

The conference agreement includes $487,500,000 for International Narcotics Control and Law Enforcement, which is $98,000,000 above the request. Funds made available under the heading are to be allocated according to the following table and are subject to the terms and conditions of section 1103 (a) and (b) concerning allocations and notifications:

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

[Budget authority in thousands of dollars]

Country/Activity	Request	House	Senate	Conference
Afghanistan:				
Good Performers Initiative	23,000	23,000	20,000	23,000
Combating Violence Against Women and Girls	.....	.....	10,000	10,000
Unallocated	.....	106,000	103,000	100,000
Subtotal, Afghanistan	129,000	129,000	133,000	133,000
Iraq	20,000	20,000	20,000	20,000
Mexico	66,000	160,000	66,000	160,000
Pakistan	65,500	65,500	65,500	65,500
West Bank and Gaza	109,000	109,000	109,000	109,000
Total—INCLE	389,500	483,500	393,500	487,500

Afghanistan.—The conferees remain concerned with continuing reports of violence against women and girls in Afghanistan, who lack adequate protection by the police or recourse from the Afghan judicial system. The conference agreement provides not less than $10,000,000 to train and support Afghan women investigators, police officers, prosecutors and judges with specific responsibility for investigating, prosecuting, and punishing crimes of violence against women and girls.

The conferees intend that the Secretary of State and the USAID Administrator, in cooperation with the Secretary of Defense, will ensure that civilian personnel assigned to serve in Afghanistan receive civilian-military coordination training that focuses on counterinsurgency and stability operations. The conferees direct the Secretary of State to submit a report to the Committees on Appropriations not later than 90 days after enactment of this Act, detailing how such training addresses current and future civilian-military coordination requirements.

Mexico.—The conference agreement includes $160,000,000 for assistance for Mexico, and requires the Department of State to submit to the Committees on Appropriations a spending plan for such funds not later than 45 days after enactment of this Act.

The conference agreement provides that none of the funds appropriated in this title shall be used for the cost of fuel for aircraft purchased with funds provided in this title for Mexico, or to support the operations and maintenance costs of aircraft purchased by the Government of Mexico.

The conferees direct the Secretary of State to submit a report to the Committees on Appropriations not later than 45 days after enactment of this Act detailing actions taken by the Government of Mexico since June 30, 2008, to investigate, prosecute, and punish violations of internationally recognized human rights by members of the Mexican Federal police and military forces, and to support a thorough, independent, and credible investigation of the murder of American citizen Bradley Roland Will.

Palestinian Security Forces.—The conferees support continued funding for the training of Palestinian Security Forces, and direct the Secretary of State to submit a report to the Committees on Appropriations not later than 90 days after enactment of this Act, in classified form if necessary, on the use of assistance provided by the United States for the training of Palestinian security forces, including the training, curriculum, and equipment provided, an assessment of the effectiveness of the training and the performance of forces after training is completed, and an assessment of factors that limit the operational capabilities of forces trained.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

The conference agreement includes $102,000,000 for Nonproliferation, Anti-Terrorism, Demining and Related Programs, which is $20,000,000 below the request. Within the total, $77,000,000 is provided for the Nonproliferation and Disarmament Fund for nuclear dismantlement and related activities, as well as for border security equipment, training, and program management to prevent smuggling of illicit goods into Gaza.

The conference agreement includes a provision that the Secretary of State shall work assiduously to facilitate the regular flow of people and licit goods in and out of Gaza at established border crossings. The conferees direct the Secretary of State to submit a report to the Committees on Appropriations not later than 45 days after enactment of this Act, and every 90 days thereafter until September 30, 2010, detailing progress in this effort.

MIGRATION AND REFUGEE ASSISTANCE

The conference agreement includes $390,000,000 for Migration and Refugee Assistance, which is $57,000,000 above the revised request to respond to urgent humanitarian requirements for refugees and internally displaced persons (IDPs) in the Middle East, South and Central Asia, including Pakistan and Sri Lanka, Southeast Asia, Africa, Colombia and other refugees and IDPs around the world.

United Nations Relief and Works Agency (UNRWA).—The conference agreement provides up to $119,000,000 for UNRWA for activities in the West Bank and Gaza. The Secretary of State is to submit a report to the Committees on Appropriations not later than 45 days after enactment of this Act, on whether UNRWA is: (1) utilizing Operations Support Officers in the West Bank and Gaza to inspect UNRWA installations and report any inappropriate use; (2) acting promptly to deal with any staff or beneficiary violations of its own policies (including the policies on neutrality and impartiality of employees) and the legal requirements under section 301(c) of the Foreign Assistance Act of 1961; (3) taking necessary and appropriate measures to ensure it is operating in compliance with the conditions of section 301(c) of the Foreign Assistance Act of 1961; (4) continuing regular reporting to the Department of State on actions it has taken to ensure conformance with the conditions of section 301(c) of the Foreign Assistance Act of 1961; (5) taking steps to improve the transparency of all educational materials currently in use in UNRWA-administered schools; (6) using curriculum materials in UNRWA-supported schools and summer camps designed to promote tolerance, non-violent conflict resolution and human rights; (7) not engaging in operations with financial institutions or related entities in violation of relevant United States law and is enhancing its transparency and financial due diligence and working to diversify its banking operations in the region; and (8) in compliance with the United Nations Board of Auditors' biennial audit requirements and is implementing in a timely fashion the Board's recommendations.

INTERNATIONAL SECURITY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

PEACEKEEPING OPERATIONS

The conference agreement includes $185,000,000 for Peacekeeping Operations (PKO), which is $135,000,000 above the request. The conferees do not include the transfer authority to allow funds to be shifted between accounts, as proposed by the Senate.

Democratic Republic of the Congo (DRC).—The conference agreement includes $15,000,000 for the DRC, which is $5,000,000 above the request, for training costs and procurement of equipment to support a professional rapid reaction force, as proposed by the Senate. The conferees direct that any training of a rapid reaction force provided with the use of PKO funding from this or prior acts, shall ensure that all members and units be trained in the fundamental principles of respect for human rights and protection of civilians with a focus on the prevention of rape and other sexual abuse.

Multinational Force and Observer Mission (MFO).—The conference agreement provides $2,000,000 for the MFO in the Sinai for activities that facilitate communications between the parties to the Treaty of Peace.

Somalia.—The conference agreement provides $168,000,000 for assistance for Somalia,

of which $115,900,000 may be used to pay assessed expenses of international peacekeeping activities in Somalia and $52,100,000 may be used for security sector reform.

The conferees are concerned with the recent surge of piracy off the coast of the Horn of Africa and direct the Secretary of State to submit a report to the Committees on Appropriations, not later than 90 days after enactment of this Act, on the feasibility of creating an indigenous maritime capability in Somalia to combat piracy.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

The conference agreement includes $2,000,000 for International Military Education and Training, which is the same as the request, for education and training of Iraqi Security Forces.

FOREIGN MILITARY FINANCING PROGRAM

The conference agreement includes $1,294,000,000 for Foreign Military Financing Program (FMF), which is $1,195,600,000 above the request.

Mexico.—The conference agreement includes $260,000,000 to expand aviation support for the Mexican Navy, and includes language to ensure the expeditious delivery of such equipment.

Lebanon.—The conference agreement includes $69,000,000 for assistance for Lebanon. The conferees direct that no assistance may be made available for obligation until the Secretary of State reports to the Committees on Appropriations on the vetting procedures in place to determine eligibility to participate in United States training and assistance programs funded under this account.

The conferees direct the Secretary of State to report on the procedures in place to ensure that no funds are provided to any individuals or organizations that have any known links to terrorist organizations including Hezbollah, and mechanisms to monitor the use of the funds.

The conferees direct that the Department of State consult with the Committees on Appropriations prior to the obligation of funds provided for assistance for Lebanon in this title.

Security Assistance to Near East Countries.—The conference agreement includes funding for a portion of the fiscal year 2010 budget request for security assistance for Jordan, Egypt, and Israel, the amounts of which are not in addition to the funds requested for fiscal year 2010.

Jordan.—The conference agreement provides $150,000,000 for assistance for Jordan, as proposed by the House. The fiscal year 2010 budget request, based upon a Memorandum of Understanding between the United States and Jordan, totals $300,000,000.

Egypt.—The conference agreement provides $260,000,000 for FMF grants for Egypt, which shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York not later than October 30, 2009, similar to that proposed by the House. The fiscal year 2010 budget request totals $1,300,000,000.

Israel.—The conference agreement provides $555,000,000 for FMF grants for Israel, which shall be available not later than October 30, 2009, similar to that proposed by the House. The fiscal year 2010 budget request, based upon a Memorandum of Understanding between the United States and Israel, totals $2,775,000,000. The conference agreement provides that to the extent that the Government of Israel requests that FMF grant funds for Israel be used for such purposes, and as agreed by the United States and Israel, funds may be made available for advanced weapons systems, of which $145,965,000 shall be available for the procurement in Israel of defense articles and services, including research and development.

PAKISTAN COUNTERINSURGENCY CAPABILITY FUND

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $700,000,000 for a new Pakistan Counterinsurgency Capability Fund (PCCF) under the Department of State, which becomes available on September 30, 2009 and remains available through fiscal year 2011. The conferees support the Administration's efforts to increase the counterinsurgency capability of the Pakistani security forces to help Pakistan defeat the extremist networks that are operating within its territory. As the Secretary of State is the principal adviser to the President on foreign policy matters, the conferees believe the PCCF should be under the authority of the Department of State. The conferees believe that the Department of State possesses the institutional capacity to manage this account, working in close coordination with the Department of Defense. The conferees also provide funding for the PCCF for fiscal year 2009 to the Department of Defense and direct the Secretary of State and the Secretary of Defense to jointly develop a plan for transitioning the PCCF from the Department of Defense to the Department of State for fiscal year 2010. The conferees expect the Department of State to consult closely on the uses of the PCCF to ensure that the funds are obligated and expended in a timely manner, and sufficient oversight mechanisms exist.

GENERAL PROVISIONS, THIS TITLE

The conference agreement includes the following general provisions for this title:

EXTENSION OF AUTHORITIES

The conference agreement extends certain authorities necessary to expend Department of State and foreign assistance funds.

AFGHANISTAN

The conference agreement imposes certain conditions and limitations on assistance for Afghanistan, including assistance for Afghan women and girls, contracts and grants, acquisition of land, United Nations Development Program (UNDP), the National Solidarity Program, airwing implementation, and anti-corruption. The conferees are aware of the efforts by UNDP and USAID to resolve concerns related to program implementation and these efforts should continue.

ALLOCATIONS

The conference agreement requires that funds in the specified accounts shall be allocated as indicated in the respective tables in this joint statement, as proposed by the Senate and similar to that proposed by the House. Any change to these allocations shall be subject to the regular notification procedures of the Committees on Appropriations.

SPENDING PLAN AND NOTIFICATION PROCEDURES

The conference agreement requires the Secretary of State to provide detailed spending plans to the Committees on Appropriations on the uses of funds appropriated in this title, similar to that proposed by the House and Senate. These funds are also subject to the regular notification procedures of the Committees on Appropriations.

GLOBAL FINANCIAL CRISIS

The conference agreement provides for assistance for countries severely affected by the global financial crisis, requires the Secretary of State to submit a report prior to making assistance available, and provides authority to transfer funds to the Development Credit Authority and the Overseas Private Investment Corporation. The provision includes reprogramming authority to the MCC.

IRAQ

The conference agreement provides certain conditions and limitations relating to assistance for Iraq, including matching funds, as proposed by the Senate.

PROHIBITION ON ASSISTANCE TO HAMAS

The conference agreement prohibits assistance to Hamas or any entity effectively controlled by Hamas, and further prohibits assistance to any power-sharing government of which Hamas is a member unless such government, including all of its ministers or such equivalent, has met certain conditions. The conferees believe that a public acceptance should be an acceptance in writing by such government and its ministers, as proposed by the House and Senate.

TERMS AND CONDITIONS

The conference agreement stipulates that unless designated otherwise in this title, the terms and conditions contained in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009 (division H of Public Law 111–8) shall apply to funds appropriated by this title, except sections 7070(e) with respect to funds made available for macroeconomic growth assistance for Zimbabwe, and 7042(a) and (c), as proposed by the House and similar to that proposed by the Senate.

MULTILATERAL DEVELOPMENT BANKS REPLENISHMENTS

The conference agreement amends permanent law to authorize appropriations for the fifteenth replenishment of the International Development Association and the eleventh replenishment of the African Development Fund, including the Multilateral Debt Relief Initiative, as proposed by the Senate.

PROMOTION OF POLICY GOALS AT THE WORLD BANK GROUP

The conference agreement amends permanent law regarding the World Bank's ''Doing Business Report'' and World Bank policies relating to the Inspection Panel, as proposed by the Senate.

CLIMATE CHANGE MITIGATION AND GREENHOUSE GAS ACCOUNTING

The conference agreement amends permanent law regarding World Bank policies relating to greenhouse gas accounting and climate change mitigation, as proposed by the Senate.

MULTILATERAL DEVELOPMENT BANK REFORM

The conference agreement requires the Secretary of the Treasury to seek to ensure that the multilateral development banks disclose their operating budgets, rigorously evaluate their programs and financing, and endorse the Extractive Industry Transparency Initiative. It also requires coordination between the Secretary of the Treasury, Secretary of State, USAID Administrator, and other relevant Federal agencies, on United States policy relating to the development activities of the World Bank Group, as proposed by the Senate.

OVERSEAS COMPARABILITY PAY ADJUSTMENT

The conference agreement authorizes locality pay adjustments for fiscal year 2009 for members of the Foreign Service stationed overseas comparable to that if such member's official duty station were in the District of Columbia, as proposed by the Senate.

REFUGEE PROGRAMS AND OVERSIGHT

The conference agreement provides that up to $119,000,000 from funds appropriated under the ''Migration and Refugee Assistance'' heading in this title may be made available to UNRWA for the West Bank and Gaza and transfers $1,000,000 of the funds made available under the ''Economic Support Fund''

heading to the Inspector General of the Department of State for oversight of activities in the West Bank and Gaza and surrounding region, similar to that proposed by the House. The agreement includes the UNRWA report requirement proposed by the House in modified form under the ''Migration and Refugee Assistance'' heading in this joint statement.

TECHNICAL AND OTHER PROVISIONS

The conference agreement includes the following technical and other provisions: subsection (a) of this provision modifies a limitation in current law regarding assistance for Egypt, similar to that proposed by the Senate; subsection (b) applies the regular notification procedures to funds that are transferred to the Department of State or USAID, similar to that proposed by the Senate; subsection (c) authorizes USAID to recruit retired Civil Service employees as re-employed annuitants to serve in Iraq, Afghanistan, or Pakistan through 2010, similar to that proposed by the Senate; and subsection (d) authorizes a financial incentive to employees who agree to remain in these posts for an additional year through 2010, similar to that proposed by the Senate; and subsection (e) provides certain transfer authority, as proposed by the Senate.

AFGHANISTAN AND PAKISTAN COMMITMENT AND CAPABILITIES REPORT

The conference agreement requires that the President report to the Committees on Appropriations on whether the Governments of Afghanistan and Pakistan are demonstrating the necessary commitment, capability, conduct and unity of purpose to warrant the continuation of the President's policy announced on March 27, 2009, similar to that proposed by the House.

UNITED STATES POLICY REPORT ON AFGHANISTAN AND PAKISTAN

The conference agreement requires a report on the objectives of United States policy in Afghanistan and Pakistan, metrics to assess progress in achieving the objectives, an assessment of progress, and recommendations for additional resources or authorities, if any, as proposed by the Senate.

The conference agreement does not include a provision proposed in the request providing the availability of assistance for Burma and Afghanistan notwithstanding any other provision of law. The conference agreement includes limited notwithstanding authority for Burma under the heading ''Economic Support Fund'' and a limited notwithstanding authority for Zimbabwe in section 1108. The conferees also provide limited notwithstanding authority for Afghanistan. The conference agreement does not include House sections 21006 (Somalia) and Senate sections 1103 (Burma), 1108 (Mexico), 1115 (Assistance for Pakistan), 1116 (Special Authority), 1120 (Overseas Deployments), and 1122 (Additional Amount for Assistance for Georgia).

TITLE XII

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

The agreement provides $13,200,000 from the Airport and Airway Trust Fund to remain available until expended to carry out the essential air service program as proposed by the Senate. The House did not include a similar provision.

FEDERAL AVIATION ADMINISTRATION

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

The agreement rescinds $13,200,000 in excess Grants-in-Aid for Airports contract authority, as proposed by the Senate. The House did not include a similar provision.

GENERAL PROVISIONS—THIS TITLE

Section 1201 removes a limitation that prevents the State of North Dakota from spending more than $10,000,000 of highway funding from the emergency relief program in any given year on the repair and strengthening of the roads surrounding Devils Lake, as proposed by the Senate. The House did not include a similar provision.

Section 1202 allows transit agencies to use up to 10 percent of the formula grants provided in the American Recovery and Reinvestment Act (ARRA) for operating expenses. The conferees modified the original Senate language to clarify that 10 percent of the funds provided in ARRA for intercity bus service shall also be available to cover operating expenses which is consistent with existing law. The House did not include a similar provision.

Section 1203 includes a provision proposed by the Senate which replaces the $50,000,000 allocation provided in Public Law 110–329 with an $80,000,000 allocation, and designates this funding for tenant-based Section 8 funding for all areas affected by Hurricanes Katrina and Rita. The House did not include a similar provision.

Section 1204 clarifies that eligible recipients for the funds provided in ARRA for gap financing include owners of affordable housing tax credits under section 1400N of the Internal Revenue Code of 1986, known as ''disaster credits'' or ''Go Zone'' credits, as well as owners of projects that receive low income housing tax credits under section 42(h) of the Internal Revenue Code of 1986, as proposed by the Senate. The House did not include a similar provision.

Section 1205 includes a new provision which clarifies prevailing wage requirements for housing funds provided in ARRA.

TITLE XIII—CONSUMER ASSISTANCE TO RECYCLE AND SAVE ACT

The conference agreement includes a new title providing $1 billion for vouchers of $3,500 or $4,500 to be applied toward the purchase or lease of a new fuel efficient automobile or truck from July 1–November 1, 2009. To qualify for a voucher under this authority the vehicle turned in must be scrapped, and the purchased vehicle must achieve greater fuel efficiency than the vehicle to be turned in.

TITLE XIV—OTHER MATTERS

INTERNATIONAL ASSISTANCE PROGRAMS

INTERNATIONAL MONETARY PROGRAMS

UNITED STATES QUOTA, INTERNATIONAL MONETARY FUND

The conference agreement provides for an increase in the United States quota in the International Monetary Fund (the Fund), as requested, of approximately 5 billion in Special Drawing Rights (SDRs), valued at approximately $8,000,000,000, in order to maintain its current voting share and veto power within the organization, as proposed by the Senate.

LOANS TO INTERNATIONAL MONETARY FUND

The conference agreement provides for loans to the Fund, as requested, of the dollar equivalent of up to 75 billion SDRs. This will enable the United States to increase its share of the New Arrangements to Borrow, which establishes a set of credit lines extended to the Fund, from approximately $10,000,000,000 (6.6 billion SDRs) to the equivalent of $100,000,000,000, as proposed by the Senate.

GENERAL PROVISIONS—INTERNATIONAL ASSISTANCE PROGRAMS

SEC. 1401. The conference agreement includes a provision, as requested, authorizing the Secretary of the Treasury to instruct the United States Executive Director of the Fund to consent to amendments to the New Arrangements to Borrow and to make loans, in an amount not to exceed the dollar equivalent of 75 billion SDRs, in addition to amounts previously authorized, as proposed by the Senate.

SEC. 1402. The conference agreement includes a provision, as requested, authorizing the United States Governor of the Fund to agree to and accept amendments to the Articles of Agreement of the Fund as proposed in resolutions approved by the Fund's Board on April 28, 2008 and May 5, 2008. The provision further authorizes the United States Governor of the Fund, as requested, to consent to an increase in the United States quota in the Fund equivalent to 43,973,100,000 SDRs. The provision also authorizes the Secretary of the Treasury, as requested, to instruct the United States Executive Director of the Fund to agree to the sale of 12,965,649 ounces of the Fund's gold. Since the Fund relies primarily on income from lending operations to finance lending activities and expenses, the sale of gold will finance an endowment, the return on which will finance a portion of its administrative expenses. The conferees direct the Secretary of Treasury to seek to ensure that the Fund provides support to low-income countries by making available Fund resources of not less than $4,000,000,000 and that such resources should be provided as loans with substantial concessionality and debt service payment relief and/or grants, as proposed by the Senate.

SEC. 1403. The conference agreement requires the Secretary of the Treasury, in consultation with the United States Executive Director of the World Bank and the Executive Board of the Fund, to submit a report detailing the steps taken to coordinate the activities of the World Bank and the Fund to avoid the duplication of missions, and steps taken by the Department of the Treasury and the Fund to increase the oversight and accountability of Fund activities. The conference agreement requires the United States Executive Director of the Fund to use the voice and vote of the United States to oppose any loan, project, agreement, or other activity that imposes budget constraints, and to promote social spending in the country. All provisions were proposed by the Senate.

SEC. 1404. The conference agreement includes a provision that amends the International Financial Institutions Act to require the United States Executive Director at each of the International Financial Institutions (as defined in section 1701(c)(2) of this Act) to use the voice and vote of the United States to oppose the provision of loans or other use of the funds of the respective institution to any country the government of which as repeatedly provided support for acts of international terrorism.

GENERAL PROVISIONS—THIS ACT

AVAILABILITY OF FUNDS

Sec. 14101. The conference agreement includes a provision proposed by both the House and Senate that limits the availability of funds provided in this Act.

OVERSEAS DEPLOYMENTS AND EMERGENCY DESIGNATIONS

Sec. 14102. The conference agreement includes a global designation, as proposed by the House, providing that each amount in titles I, II, IV, V, VII, VIII, IX, XII, XIII, XIV, and VI, except amounts under the heading ''Coast Guard Operating Expenses'', is designated as necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal

year 2010. The agreement also includes a global designation, as proposed by the House, providing that all other amounts in the bill, except certain amounts rescinded in section 309 of the conference report, are designated as being for overseas deployment and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress). The Senate included emergency and overseas deployment designations on an account-by-account basis.

RESTRICTIONS AND REQUIREMENTS REGARDING THE TRANSFER AND RELEASE OF GUANTANAMO BAY DETAINEES

Sec. 14103. The conference agreement includes language prohibiting current detainees from being released in the continental United States, Alaska, Hawaii or D.C. The agreement also prohibits current detainees from being transferred to the U.S., except to be prosecuted, and only 45 days after Congress receives a plan detailing the risks involved and a plan for mitigating such risk; cost of the transfer; legal rationale and court demands; and a copy of the notification provided to the Governor of the receiving state (or the Mayor of the District of Columbia) 14 days before a transfer with a certification by the Attorney General that the individual poses little or no security risk.

Under the conference agreement, current detainees cannot be transferred or released to another country unless the President submits to Congress 15 days prior to such transfer: (a) the name of the individual and the country to which the individual will be transferred; (b) an assessment of risks posed and actions taken to mitigate such risks; and (c) the terms of the transfer agreement with the other country, including any financial assistance. Finally, the agreement includes language requiring the President to submit a report to Congress describing the disposition of each current detainee before the facility can be closed.

The conference agreement deletes the language included in title II of the Senate amendment that prohibited the use of funds appropriated or made available by this or any prior Act to transfer, release or incarcerate Guantanamo detainees to or within the U.S.

The conference agreement also deletes a provision proposed by the House that required the President to submit to Congress by October 1, 2009 a comprehensive plan on the proposed disposition of the Guantanamo Bay detention facilities.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2009 recommended by the Committee of Conference, comparisons to the 2009 budget estimates, and the House and Senate bills for 2009 follow:

[In thousands of dollars]

Budget estimates of new (obligational) authority, fiscal year 2009	92,145,120
House bill, fiscal year 2009	96,716,971
Senate bill, fiscal year 2009	91,283,119
Conference agreement, fiscal year 2009	105,850,549
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 2009	+13,705,429
House bill, fiscal year 2009	+9,133,578
Senate bill, fiscal year 2009	+14,567,430

NOTIFICATION OF EMERGENCY LEGISLATION

The congressional budget resolution (S. Con. Res. 13) agreed to by Congress for fiscal year 2010 includes provisions relating to the notification of emergency spending. These provisions require a statement of how the emergency provisions contained in the conference agreement meet the criteria for emergency spending as identified in the budget resolution.

The conference agreement contains emergency funding for fiscal year 2009 primarily for natural disasters and the threat of pandemic influenza. Funding for natural disasters includes, but is not limited to, wildland fires, flooding in the Upper Midwest and Pacific Northwest, for ice storms, for Katrina hurricane recovery and subsequent storms, including Hurricanes Ike and Gustav in the gulf coast region, and for other needs. The funding is related to unanticipated needs and is for situations that are sudden, urgent, and unforeseen, specifically prevention of pandemic influenza and other disasters. These needs meet the criteria for emergencies.

DISCLOSURE OF CONGRESSIONAL EARMARKS AND CONGRESSIONALLY DIRECTED SPENDING ITEMS

Following is a list of congressional earmarks and congressionally directed spending items (as defined in clause 9 of rule XXI of the Rules of the House of Representatives and rule XLIV of the Standing Rules of the Senate, respectively) included in the conference report or the accompanying joint statement of managers, along with the name of each House Member, Delegate, Resident Commissioner, or Senator who submitted a request to the Committee of jurisdiction for each item so identified. Neither the conference report nor the joint statement of managers contains any limited tax benefits or limited tariff benefits as defined in the applicable House or Senate rules.

TITLE IV—ENERGY AND WATER DEVELOPMENT

[Congressionally Directed Spending Items]

Account	Project	Amount	Requester(s)
Flood Control and Coastal Emergencies	Mississippi Barrier Island Restoration	$439,000,000	Cochran, Wicker
General Provision	Upper Newport Bay, California		Feinstein

TITLE V—FINANCIAL SERVICES AND GENERAL GOVERNMENT

[Congressionally Directed Spending Items]

Account	Project	Amount	Requester(s)
General Provision	Amendment to Federal Deposit Insurance Act—Interest rate ceilings		Lincoln

TITLE VI—HOMELAND SECURITY

[Congressionally Directed Spending Items]

Account	Project	Amount	Requester(s)
General Provision	Jones Act Waiver—Drydock ALABAMA, AL		Bonner, Shelby
General Provision	Jones Act Waiver—Vessel MARYLAND INDEPENDENCE, MD		Ruppersberger
General Provision	Communications System, MS		Cochran, Wicker
General Provision	Hurricanes Katrina/Rita—Case Management, MS		Cochran
General Provision	Hurricanes Katrina/Rita—Primary and Secondary School Repair Reimbursement, LA		Landrieu
General Provision	Hurricane Ike—Disaster Assistance Direct Loans, TX		Hutchison
General Provision	Reimbursements for Presidentially Declared Disasters—TX, LA, KY, WV *		Edwards (TX), Culberson, Hutchison, Melancon, Alexander (LA), Landrieu, Vitter, Rogers (KY), Byrd

TITLE X—MILITARY CONSTRUCTION

[Congressionally Directed Spending Items]

Account	Project	Amount	Requester(s)
Military Construction, Army	Mississippi Army Ammunition Plant Hurricane Damage Repair	$49,000,000	Cochran, Taylor
Military Construction, Navy	Vision Center of Excellence, Maryland	4,052,000	Murray, Boozman, Nye, Walz

TITLE XII—TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT

[Congressionally Directed Spending Items]

Account	Project	Amount	Requester(s)
Federal-aid Highway Program, Emergency Relief	Devils Lake Roads, North Dakota		Dorgan, Conrad

*Item was neither committed to the conference committee by either House nor in a report of a committee of either House on either bill.

DAVID R. OBEY,
JOHN P. MURTHA,
NITA M. LOWEY,
ROSA L. DELAURO,
CHET EDWARDS,
Managers on the Part of the House.

DANIEL K. INOUYE,
ROBERT C. BYRD,
PATRICK J. LEAHY,
TOM HARKIN,
BARBARA A. MIKULSKI,
HERB KOHL,
PATTY MURRAY,
BYRON L. DORGAN,
DIANNE FEINSTEIN,
RICHARD J. DURBIN,
TIM JOHNSON,
MARY L. LANDRIEU,
JACK REED,
FRANK R. LAUTENBERG,
E. BENJAMIN NELSON,
MARK PRYOR,
JON TESTER,
ARLEN SPECTER,
THAD COCHRAN,
KIT BOND,
MITCH MCCONNELL,
JUDD GREGG,
ROBERT F. BENNETT,
LAMAR ALEXANDER,
SUSAN COLLINS,
GEORGE V. VOINOVICH,
LISA MURKOWSKI,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HOLT (at the request of Mr. HOYER) for today.

Ms. ESHOO (at the request of Mr. HOYER) for today.

Mr. CHILDERS (at the request of Mr. HOYER) for today on account of district business.

Mr. ROGERS of Michigan (at the request of Mr. BOEHNER) for today on account of the promotion ceremony of his brother, Brigadier General James Rogers, to the rank of Major General in the United States Army.

Mr. GINGREY of Georgia (at the request of Mr. BOEHNER) for today on account of attending the memorial service for Sergeant Jeffrey W. Jordan, which will be held in Rome, Georgia. Sergeant Jordan made the ultimate sacrifice for our Nation in Afghanistan on June 4, 2009.

Mr. JONES (at the request of Mr. BOEHNER) for today on account of personal reasons.

Mr. GARY G. MILLER of California (at the request of Mr. BOEHNER) for today on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Ms. RICHARDSON, for 5 minutes, today.

(The following Members (at the request of Mr. POE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. HENSARLING, for 5 minutes, today.

Mr. SMITH of New Jersey, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, June 15, 16, 17, 18 and 19.

Mr. POE of Texas, for 5 minutes, June 19.

Mr. JONES, for 5 minutes, June 19.

Mr. FLAKE, for 5 minutes, today.

Mr. FLEMING, for 5 minutes, June 18.

ENROLLED JOINT RESOLUTION SIGNED

Lorraine C. Miller, Clerk of the House, reported and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 40. Joint resolution to honor the achievements and contributions of Native Americans to the United States, and for other purposes.

ADJOURNMENT

Mr. LATOURETTE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 58 minutes p.m.), under its previous order, the House adjourned until Monday, June 15, 2009, at 12:30 p.m., for morning-hour debate.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2125. A communication from the President of the United States, transmitting a request for FY 2010 budget amendments for the Departments of Commerce, Defense, Education, Health and Human Services, Homeland Security, Justice, and State, and Other International Programs, as well as the District of Columbia; (H. Doc. No. 111—48); to the Committee on Appropriations and ordered to be printed.

2126. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Morocco for defense articles and services (Transmittal No. 09-21), pursuant to 22 U.S.C. 36(b)(1); to the Committee on Foreign Affairs.

2127. A letter from the Assistant Secretary Legislative Affairs, Department of State, transmitting certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles to Iraq, the United Kingdom, and the United Arab Emirates (Transmittal No. DDTC 032-09), pursuant to 22 U.S.C. 39, 36(c); to the Committee on Foreign Affairs.

2128. A letter from the Assistant Secretary Legislative Affairs, Department of State, transmitting certification of a proposed manufacturing license agreement with Mexico (Transmittal No. DDTC 011-09), pursuant to 22 U.S.C. 39, section 36(c) and (d); to the Committee on Foreign Affairs.

2129. A letter from the Secretary, Department of the Treasury, transmitting a six-month periodic report on the national emergency with respect to the situation in or in relation to the Democratic Republic of the Congo that was declared in Executive Order 13413 of October 27, 2006, pursuant to 50 U.S.C. 1641(c); to the Committee on Foreign Affairs.

2130. A letter from the Deputy General Counsel for Operations, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

2131. A letter from the Deputy General Counsel for Operations, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

2132. A letter from the Deputy General Counsel for Operations, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

2133. A letter from the Senior Associate General Counsel, Office of the Director of National Intelligence, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

2134. A letter from the Senior Associate General Counsel, Office of the Director of National Intelligence, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

2135. A letter from the Chairman, United States Postal Service, transmitting the Semiannual Report of the Inspector General on the Audit, Investigative, and Security Activities of the Postal Service (SAR) for the period of Octoebr 1, 2008 through March 31, 2009, pursuant to 5 U.S.C. app. (Insp. Gen. Act), section 5(b); to the Committee on Oversight and Government Reform.

2136. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2009 Georges Bank Cod Fixed Gear Sector Operations Plan and Agreement, and Allocation of Georges Bank Cod Total Allowable Catch [Docket No.: 090123054-9591-02] (RIN: 0648-XM12) received May 20, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

2137. A letter from the Deputy Assistant Administrator For Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to the Pollock Trip Limit Regulations in the Gulf of Alaska [Docket No.: 080310410-9585-02] (RIN: 0648-AW54) received May 20, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

2138. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska, Groundfish of the Gulf of Alaska; Correction [Docket No.: 080721859-9592-03] (RIN: 0648-AX01) received May 20, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

2139. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administation's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the West Yakutat District of the Gulf of Alaska [Docket No.: 0910091344-9056-02] (RIN: 0648-XO73) received May 20, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

2140. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2009 Georges Bank Cod Hook Sector Operations Plan and Agreement, and Allocation of Georges Bank Cod Total Allowable Catch [Docket No.: 090122047-9252-02] (RIN: 0648-XM11) received May 20, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

2141. A letter from the Chief Privacy Officer, Department of Homeland Security, transmitting the Department's report entitled, ''Privacy Office Second Quarter Fiscal Year 2009 Report to Congress'', pursuant to Public Law 110-53; to the Committee on Homeland Security.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr WAXMAN: Committee on Energy and Commerce. House Resolution 449. Resolution of inquiry requesting the President to provide certain documents in his possession to the House of Representatives relating to the Environmental Protection Agency's April proposed finding that greenhouse gas emissions are a danger to public health and welfare (Rept. 111–146). Referred to the House Calendar.

Mr. WAXMAN: Committee on Energy and Commerce. House Resolution 462. Resolution requesting that the President transmit to the House of Representatives all information in his possession relating to specific communications with Chrysler LLC (''Chrysler'') (Rept. 111–147). Referred to the House Calendar.

Mr. OBEY: Committee on Appropriations. Report on the Allocation of Budget Allocations for Fiscal Year 2010. (Rept. 111–148). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOLLOHAN: Committee on Appropriations. H.R. 2847. A bill making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes (Rept. 111–149). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on the Judiciary. H.R. 2247. A bill to amend title 5, United States Code, to make technical amendments to certain provisions of title 5, United States Code, enacted by the Congressional Review Act (Rept. 111–150). Referred to the Committee of the Whole House on the State of the Union.

Mr. OBEY: Committee of Conference. Conference report on H.R. 2346. A bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes (Rept. 111–151). Ordered to be printed.

Mr. BRADY of Pennsylvania: Committee on House Administration. House Concurrent Resolution 131. Resolution directing the Architect of the Capitol to engrave the Pledge of Allegiance to the Flag and the National Motto of ''In God We Trust'' in the Capitol Visitor Center (Rept. 111–152). Referred to the Committee of the Whole House on the State of the Union.

Mr. BRADY of Pennsylvania: Committee on House Administration. House Concurrent Resolution 135. Resolution directing the Architect of the Capitol to place a marker in Emancipation Hall in the Capitol Visitor Center which acknowledges the role that slave labor played in the construction of the United States Capitol, and for other purposes (Rept. 111–153). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Ms. WASSERMAN SCHULTZ (for herself, Mr. ADERHOLT, Mr. EHLERS, Mr. DANIEL E. LUNGREN of California, Mr. BRADY of Pennsylvania, Mr. LATHAM, and Mr. WAMP):

H.R. 2843. A bill to provide for the joint appointment of the Architect of the Capitol by the Speaker of the House of Representatives, the President pro tempore of the Senate, the Majority and Minority Leaders of the House of Representatives and Senate, and the chairs and ranking minority members of the committees of Congress with jurisdiction over the Office of the Architect of the Capitol, and for other purposes; to the Committee on House Administration, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KIND (for himself, Mr. BRALEY of Iowa, Mr. BLUMENAUER, Mr. WALZ, and Mr. INSLEE):

H.R. 2844. A bill to amend title XVIII of the Social Security Act to create a value indexing mechanism for the physician work component of the Medicare physician fee schedule; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FRANKS of Arizona (for himself, Mr. GRIFFITH, Mr. TURNER, Mr. MARSHALL, Mr. SESSIONS, and Mr. LAMBORN):

H.R. 2845. A bill to direct the Secretary of Defense to deploy ground-based interceptors as part of the missile defense system, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOEHNER (for himself, Mr. ADERHOLT, Mr. AKIN, Mr. ALEXANDER, Mr. AUSTRIA, Mrs. BACHMANN, Mr. BACHUS, Mr. BARTON of Texas, Mrs. BIGGERT, Mrs. BLACKBURN, Mr. BLUNT, Mr. BONNER, Mr. BOUSTANY, Mr. BROUN of Georgia, Mr. BROWN of South Carolina, Mr. CALVERT, Mr. CAMP, Mr. CANTOR, Mrs. CAPITO, Mr. CASSIDY, Mr. CHAFFETZ, Mr. COBLE, Mr. COLE, Mr. CONAWAY, Mr. CRENSHAW, Mr. CULBERSON, Mr. DREIER, Mr. DUNCAN, Ms. FALLIN, Mr. FLEMING, Mr. FORBES, Ms. FOXX, Mr. FRANKS of Arizona, Mr. GINGREY of Georgia, Mr. GOHMERT, Mr. GOODLATTE, Ms. GRANGER, Mr. GRAVES, Mr. HALL of Texas, Mr. HARPER, Mr. HENSARLING, Mr. HERGER, Mr. HOEKSTRA, Mr. HUNTER, Mr. ISSA, Ms. JENKINS, Mr. JORDAN of Ohio, Mr. KING of Iowa, Mr. KLINE of Minnesota, Mr. LAMBORN, Mr. LATTA, Mr. LEE of New York, Mr. LUETKEMEYER, Mrs. LUMMIS, Mr. MARCHANT, Mr. MCCAUL, Mr. MCHENRY, Mrs. MCMORRIS RODGERS, Mrs. MYRICK, Mrs. MILLER of Michigan, Mr. NEUGEBAUER, Mr. NUNES, Mr. OLSON, Mr. PENCE, Mr. PITTS, Mr. POE of Texas, Mr. REHBERG, Mr. ROE of Tennessee, Mr. ROGERS of Alabama, Mr. ROGERS of Kentucky, Mr. ROONEY, Mr. SCALISE, Mrs. SCHMIDT, Mr. SCHOCK, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SHADEGG, Mr. SHIMKUS, Mr. SMITH of Texas, Mr. SOUDER, Mr. TERRY, Mr. THOMPSON of Pennsylvania, Mr. TIAHRT, Mr. TIBERI, Mr. TURNER, Mr. UPTON, Mr. WAMP, and Mr. COFFMAN of Colorado):

H.R. 2846. A bill to increase energy independence and job creation by increasing safe American energy production, encouraging the development of alternative and renewable energy, and promoting greater efficiencies and conservation for a cleaner environment; to the Committee on Natural Resources, and in addition to the Committees on the Judiciary, Ways and Means, Energy and Commerce, Armed Services, Oversight and Government Reform, and Science and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KIRK:

H.R. 2848. A bill to amend the Controlled Substances Act with regard to penalties for trafficking in high potency marihuana, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. SCHWARTZ:

H.R. 2849. A bill to require the Secretary of Health and Human Services to enter into agreements with States to resolve outstanding claims for reimbursement under the Medicare Program relating to the Special Disability Workload project; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined

by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KUCINICH (for himself, Mr. LATOURETTE, Mr. MCHUGH, Mr. FRANK of Massachusetts, and Mr. GRIJALVA):

H.R. 2850. A bill to provide for enhanced retirement benefits for administrative law judges; to the Committee on Oversight and Government Reform.

By Mr. BRADY of Texas (for himself, Mr. SESSIONS, and Mr. AUSTRIA):

H.R. 2851. A bill to amend the Internal Revenue Code of 1986 to exclude certain gains on single-family residential rental property from gross income; to the Committee on Ways and Means.

By Mr. BRALEY of Iowa (for himself and Mr. SARBANES):

H.R. 2852. A bill to amend the Social Security Act to build on the aging network to establish long-term services and supports through single-entry point systems, evidence-based disease prevention and health promotion programs, and enhanced nursing home diversion programs; to the Committee on Energy and Commerce.

By Mr. BRALEY of Iowa:

H.R. 2853. A bill to require the purchase of domestically made flags of the United States of America for use by the Federal Government; to the Committee on Oversight and Government Reform.

By Mr. CANTOR:

H.R. 2854. A bill to require the Secretary of the Treasury to redesign $1 Federal reserve notes so as to incorporate the preamble to the Constitution of the United States, a list describing the Articles of the Constitution, and a list describing the Amendments to the Constitution, on the reverse side of such notes; to the Committee on Financial Services.

By Ms. EDWARDS of Maryland (for herself, Mr. SERRANO, Mr. HINCHEY, Mr. PIERLUISI, Mr. GRIJALVA, and Mr. LANGEVIN):

H.R. 2855. A bill to reduce deaths occurring from drug overdoses; to the Committee on Energy and Commerce.

By Ms. FALLIN (for herself, Mr. TURNER, Mr. BISHOP of Utah, Mr. BOREN, Mr. MCCOTTER, Mr. BARTLETT, Mr. SAM JOHNSON of Texas, Mr. ABERCROMBIE, Mr. COLE, Mr. SKELTON, Mr. MCKEON, Mr. KLINE of Minnesota, Mr. FLEMING, and Mr. HUNTER):

H.R. 2856. A bill to amend title 10, United States Code, to require that military decorations, ribbons, badges, medals, insignia, and other uniform accouterments used by the Armed Forces be produced in the United States; to the Committee on Armed Services.

By Mr. FORBES (for himself, Mr. BOOZMAN, Mr. SMITH of Texas, Mr. FRANKS of Arizona, and Mr. WOLF):

H.R. 2857. A bill to amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, and for other purposes; to the Committee on the Judiciary.

By Mr. KIND (for himself, Mr. BURGESS, and Ms. BALDWIN):

H.R. 2858. A bill to amend titles XI and XVIII of the Social Security Act to modernize the quality improvement organization (QIO) program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MATSUI:

H.R. 2859. A bill to amend title XIX of the Social Security Act to provide for application of an enhanced Federal matching rate for children under the Medicaid Program if certain conditions are met; to the Committee on Energy and Commerce.

By Mr. MURPHY of Connecticut (for himself and Mr. COURTNEY):

H.R. 2860. A bill to amend title XVIII of the Social Security Act to provide for a Medicare operated prescription drug plan option to deliver a meaningful drug benefit and lower prescription drug prices under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PETERS (for himself, Ms. WATERS, Mr. DINGELL, Mr. WELCH, Mr. HOLT, Mr. DEFAZIO, and Mr. CAPUANO):

H.R. 2861. A bill to amend the Securities Exchange Act of 1934 to provide for rules and standards relating to the election of boards of directors and certain requirements relating to compensation of executives; to the Committee on Financial Services.

By Mr. SPACE:

H.R. 2862. A bill to direct the Administrator of the Small Business Administration to provide education and resources to small business concerns that assist such concerns to protect themselves from phishing, and for other purposes; to the Committee on Small Business.

By Ms. WOOLSEY (for herself and Mr. BISHOP of New York):

H.R. 2863. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide for treatment of certain deferred executive compensation arrangements which is comparable to certain funding-based limits on benefits and benefit accruals imposed on defined benefit pension plans under the Pension Protection Act of 2006; to the Committee on Education and Labor.

By Mr. YOUNG of Alaska:

H.R. 2864. A bill to amend the Hydrographic Services Improvement Act of 1998 to authorize funds to acquire hydrographic data and provide hydrographic services specific to the Arctic for safe navigation, delineating the United States extended continental shelf, and the monitoring and description of coastal changes; to the Committee on Natural Resources.

By Mr. YOUNG of Alaska:

H.R. 2865. A bill to ensure safe, secure, and reliable marine shipping in the Arctic including the availability of aids to navigation, vessel escorts, spill response capability, and maritime search and rescue in the Arctic, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. MINNICK (for himself and Mr. MCCOTTER):

H. Con. Res. 151. Concurrent resolution expressing the sense of Congress that China release democratic activist Liu Xiaobo from imprisonment; to the Committee on Foreign Affairs.

By Mrs. MALONEY (for herself, Mr. GEORGE MILLER of California, and Mr. BRADY of Texas):

H. Con. Res. 152. Concurrent resolution commending the Bureau of Labor Statistics on the occasion of its 125th anniversary; to the Committee on Education and Labor.

By Ms. RICHARDSON:

H. Con. Res. 153. Concurrent resolution honoring the 111th anniversary of the independence of the Philippines; to the Committee on Foreign Affairs.

By Ms. SCHAKOWSKY (for herself, Mr. SHIMKUS, Mr. COSTELLO, Mr. QUIGLEY, Mr. GUTIERREZ, Ms. BEAN, Mr. FOSTER, Mrs. HALVORSON, Mr. HARE, Mr. JACKSON of Illinois, Mr. DAVIS of Illinois, Mr. LIPINSKI, Mr. KIRK, Mr. SCHOCK, Mr. MANZULLO, and Mr. RUSH):

H. Res. 538. A resolution supporting Olympic Day on June 23, 2009, and encouraging the International Olympic Committee to select Chicago, Illinois, as the host city for the 2016 Olympic and Paralympic Games; to the Committee on Foreign Affairs.

By Mrs. MCMORRIS RODGERS (for herself, Mr. LARSEN of Washington, Mr. BAIRD, Mr. DICKS, and Mr. REICHERT):

H. Res. 539. A resolution commending Sonora Smart Dodd for her contribution in recognizing the importance of Father's Day and recognizing the important role fathers play in our families; to the Committee on Education and Labor.

By Mr. ETHERIDGE (for himself, Mr. PRICE of North Carolina, Mr. MILLER of North Carolina, Mr. JONES, and Mr. BUTTERFIELD):

H. Res. 540. A resolution expressing condolences to the families, friends, and loved ones of the victims of the catastrophic explosion at the ConAgra Foods plant in Garner, North Carolina, and for other purposes; to the Committee on the Judiciary.

By Mr. ABERCROMBIE (for himself and Ms. HIRONO):

H. Res. 541. A resolution recognizing and honoring the restoration and renovation of the Bishop Museum's historic Hawaiian Hall, the Nation's premier showcase for Hawaiian culture and history, on the occasion of the Museum's 120th anniversary; to the Committee on Natural Resources.

By Mr. GARRETT of New Jersey (for himself, Mr. MORAN of Kansas, Mr. KISSELL, and Mr. MCGOVERN):

H. Res. 542. A resolution condemning the ongoing attacks by the Lord's Resistance Army (LRA) which have affected innocent civilians in Uganda, South Sudan, Central African Republic, and the Democratic Republic of Congo, and for other purposes; to the Committee on Foreign Affairs.

By Mrs. HALVORSON (for herself, Mr. DINGELL, Mr. MASSA, Mr. HILL, Ms. MATSUI, Mr. HALL of Texas, Mr. HINCHEY, Mrs. MALONEY, Mr. MCGOVERN, Ms. BEAN, Mr. CONNOLLY of Virginia, Mr. ISRAEL, Mr. MEEKS of New York, Mr. TEAGUE, Mr. LIPINSKI, Mr. DAVIS of Illinois, and Mr. WOLF):

H. Res. 543. A resolution expressing support for designation of June as ''Home Safety Month''; to the Committee on Energy and Commerce.

MEMORIALS

Under clause 4 of Rule XXII, memorials were presented and referred as follows:

79. The SPEAKER presented a memorial of the Senate of Pennsylvania, relative to Senate Resolution No. 32 urging the Citizens Stamp Advisory Committee to recommend and the United States Postal Service to issue a ''Forever Stamp'' honoring recipients of the Purple Heart; to the Committee on Oversight and Government Reform.

80. Also, a memorial of the House of Representatives of the Northern Mariana Islands, relative to H.J.R. No. 16-24 To support and advocate the passage of H.R. 934 now pending before the 111th United States Congress; to the Committee on Natural Resources.

81. Also, a memorial of the Sixty-first Legislative Assembly of North Dakota of North Dakota, relative to HOUSE CONCURRENT RESOLUTION NO. 3063 affirming North Dakota's sovereignty under the 10th Amendment to the Constitution of the United

States and to demand the federal government halt its practice of assuming powers and imposing mandates on the states for purposes not enumerated in the Constitution of the United States; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 33: Ms. SUTTON.
H.R. 49: Mr. REHBERG.
H.R. 156: Mr. MORAN of Kansas.
H.R. 330: Ms. KILPATRICK of Michigan.
H.R. 364: Mr. MCCOTTER.
H.R. 391: Mr. ROONEY.
H.R. 403: Ms. DELAURO and Mr. BACA.
H.R. 474: Mr. FILNER.
H.R. 502: Mr. GARRETT of New Jersey.
H.R. 560: Mr. CHAFFETZ.
H.R. 600: Mr. BACA.
H.R. 646: Mr. JACKSON of Illinois.
H.R. 676: Mr. HOLT and Mr. MARKEY of Massachusetts.
H.R. 708: Mr. YOUNG of Alaska and Mr. HERGER.
H.R. 764: Mr. SAM JOHNSON of Texas.
H.R. 780: Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. CRENSHAW, Ms. ROS-LEHTINEN, Mr. ROGERS of Kentucky, Mr. BOOZMAN, Mr. MCCARTHY of California, Mr. ROE of Tennessee, Mr. GERLACH, Mr. PAULSEN, and Mr. CAMP.
H.R. 815: Ms. GIFFORDS.
H.R. 816: Mr. BRIGHT, Mr. DOYLE, Mr. GRAVES, and Mr. WELCH.
H.R. 879: Mrs. MCMORRIS RODGERS.
H.R. 952: Mr. BERMAN and Mr. MARKEY of Massachusetts.
H.R. 964: Mr. MCCOTTER.
H.R. 968: Mr. INGLIS.
H.R. 1024: Mr. RANGEL.
H.R. 1054: Mr. BISHOP of Utah.
H.R. 1079: Mr. BURGESS, Mr. PLATTS, and Mr. SESTAK.
H.R. 1173: Mr. PLATTS.
H.R. 1177: Mr. PUTNAM and Mr. BISHOP of New York.
H.R. 1205: Mr. LYNCH, Mr. JACKSON of Illinois, Mr. CULBERSON, Mr. ACKERMAN, Mr. GRIJALVA, and Mr. TONKO.
H.R. 1207: Mr. SHULER, Mr. TEAGUE, and Mr. NUNES.
H.R. 1222: Mr. BERRY.
H.R. 1245: Mr. MASSA, Mrs. BONO MACK, Mr. COLE, and Mr. FLEMING.
H.R. 1305: Mr. WITTMAN.
H.R. 1326: Ms. TITUS, Ms. ZOE LOFGREN of California, and Mr. WEINER.
H.R. 1328: Mr. GERLACH.
H.R. 1330: Mr. RYAN of Ohio.
H.R. 1362: Mr. CAO and Mr. HODES.
H.R. 1389: Mr. PERLMUTTER.
H.R. 1405: Ms. HIRONO.
H.R. 1441: Mr. CLAY.
H.R. 1466: Mr. CUMMINGS.
H.R. 1479: Mr. DOGGETT, Mr. BRADY of Pennsylvania, and Ms. EDWARDS of Maryland.
H.R. 1503: Mr. CARTER, Mr. CULBERSON, and Mr. NEUGEBAUER.
H.R. 1521: Mr. BRADY of Pennsylvania and Mr. CONAWAY.
H.R. 1528: Ms. CLARKE, Mr. CUMMINGS, and Mr. FRANK of Massachusetts.
H.R. 1530: Ms. CLARKE.
H.R. 1531: Ms. CLARKE.
H.R. 1548: Mr. BOYD, Ms. MARKEY of Colorado, Mr. MICHAUD, Mr. GRAYSON, and Mr. TIBERI.
H.R. 1600: Mrs. MCMORRIS RODGERS.
H.R. 1612: Mr. DEFAZIO, Mr. CUMMINGS, and Mr. MCGOVERN.
H.R. 1615: Mr. HOLT.
H.R. 1618: Ms. EDDIE BERNICE JOHNSON of Texas, Ms. ROS-LEHTINEN, and Ms. DELAURO.
H.R. 1625: Mrs. MILLER of Michigan and Mr. DAVIS of Alabama.
H.R. 1633: Mr. BAIRD.
H.R. 1684: Mr. LUETKEMEYER.
H.R. 1686: Mr. WU, Ms. ZOE LOFGREN of California, Mr. MITCHELL, Mr. CONNOLLY of Virginia, Mr. COURTNEY, Mr. JOHNSON of Georgia, and Mr. SIRES.
H.R. 1776: Ms. SCHWARTZ.
H.R. 1799: Mr. SHUSTER and Mr. DENT.
H.R. 1815: Mr. COFFMAN of Colorado.
H.R. 1835: Mr. TIBERI and Mr. ROTHMAN of New Jersey.
H.R. 1870: Mr. WOLF.
H.R. 1912: Ms. BALDWIN.
H.R. 1964: Ms. NORTON.
H.R. 1977: Mr. CARNAHAN and Mr. CASSIDY.
H.R. 1980: Mr. SHIMKUS, Mr. POSEY, and Mr. PLATTS.
H.R. 1992: Mr. REYES.
H.R. 2074: Ms. SUTTON, Mr. FILNER, Mr. SESTAK, Mr. JACKSON of Illinois, Mr. VAN HOLLEN, and Mr. PAYNE.
H.R. 2097: Mr. OLVER, Mr. CAPUANO, and Mr. HINCHEY.
H.R. 2105: Ms. BALDWIN.
H.R. 2106: Ms. BALDWIN.
H.R. 2203: Mr. BARTLETT, Mr. BROUN of Georgia, Mr. COLE, Mr. ELLSWORTH, Mr. FLEMING, Mr. FRANKS of Arizona, Mr. GRIJALVA, Mr. MACK, Mr. PAUL, Mr. PAULSEN, Mr. POSEY, and Mr. WILSON of South Carolina.
H.R. 2227: Mr. FOSTER, Mr. SAM JOHNSON of Texas, and Mr. CRENSHAW.
H.R. 2256: Mr. MORAN of Virginia.
H.R. 2262: Mr. LYNCH, Mr. POLIS, Mr. SPACE, Mr. ROTHMAN of New Jersey, and Mr. MICHAUD.
H.R. 2266: Mr. DRIEHAUS and Mr. GRIJALVA.
H.R. 2267: Mr. DRIEHAUS, Mr. POLIS, Mr. GRIJALVA, and Mr. ISRAEL.
H.R. 2287: Mr. TIAHRT, Mr. WILSON of South Carolina, and Mr. TAYLOR.
H.R. 2314: Mr. COLE.
H.R. 2324: Mr. FRANK of Massachusetts and Mrs. MALONEY.
H.R. 2336: Mr. KLEIN of Florida, Mr. WILSON of Ohio, Mr. MCGOVERN, and Mr. FILNER.
H.R. 2350: Ms. SCHAKOWSKY and Mr. PRICE of North Carolina.
H.R. 2365: Ms. WOOLSEY.
H.R. 2368: Ms. ESHOO.
H.R. 2373: Ms. MARKEY of Colorado, Mr. PRICE of North Carolina, Mr. ROGERS of Alabama, and Mr. COURTNEY.
H.R. 2376: Mr. MCCOTTER.
H.R. 2389: Mr. BISHOP of New York.
H.R. 2393: Mr. CASTLE.
H.R. 2401: Mrs. MALONEY.
H.R. 2404: Mr. HIMES.
H.R. 2406: Mr. BARTON of Texas, Ms. JENKINS, Mr. WILSON of South Carolina, Mr. DENT, Mr. GINGREY of Georgia, Mr. WITTMAN, Mr. BOUSTANY, Mr. POSEY, and Mr. GOODLATTE.
H.R. 2414: Ms. SLAUGHTER.
H.R. 2421: Mr. MCKEON.
H.R. 2483: Mrs. MCCARTHY of New York, Mr. COSTA, Mrs. LOWEY, and Mr. BACA.
H.R. 2490: Mr. RUSH.
H.R. 2497: Ms. RICHARDSON, Ms. CLARKE, Mr. MEEKS of New York, and Mr. HALL of New York.
H.R. 2521: Mr. BOCCIERI and Mr. RUSH.
H.R. 2523: Mr. FILNER.
H.R. 2531: Mr. DELAHUNT.
H.R. 2560: Mr. BURGESS.
H.R. 2562: Mr. BISHOP of New York and Mrs. MCMORRIS RODGERS.
H.R. 2567: Mr. COHEN.
H.R. 2570: Ms. BALDWIN.
H.R. 2575: Mr. KAGEN.
H.R. 2586: Mr. FRANKS of Arizona.
H.R. 2635: Mr. COHEN, Mr. MCGOVERN, Mr. GEORGE MILLER of California, Ms. SCHAKOWSKY, Ms. DELAURO, and Mr. NADLER of New York.
H.R. 2667: Mr. COOPER and Ms. HIRONO.
H.R. 2670: Mr. PETERS.
H.R. 2682: Mr. MANZULLO and Mr. BOOZMAN.
H.R. 2688: Mrs. CAPPS.
H.R. 2689: Mr. GOODLATTE.
H.R. 2712: Mr. BOEHNER, Mr. FRANKS of Arizona, Mr. WILSON of South Carolina, Mr. SHUSTER, Mr. SAM JOHNSON of Texas, Mr. RADANOVICH, Mr. MILLER of Florida, Mr. ROONEY, Mr. KING of New York, Ms. GRANGER, Mr. DENT, Ms. GRANGER, Mr. DENT, Mr. BROUN of Georgia, and Mr. LAMBORN.
H.R. 2724: Mr. HINCHEY, Ms. NORTON, and Mr. MCGOVERN.
H.R. 2743: Mr. LARSON of Connecticut, Mr. BROUN of Georgia, Mr. PASCRELL, Mr. KISSELL, Ms. WATERS, Mr. SCHOCK, Mrs. HALVORSON, Mr. BLUMENAUER, Ms. SPEIER, Mr. RYAN of Ohio, Mr. LAMBORN, Mrs. CAPITO, Mr. LUJÁN, Mr. SESTAK, Mr. ROE of Tennessee, Mr. MURPHY of Connecticut, and Ms. MOORE of Wisconsin.
H.R. 2745: Mr. POSEY, Mr. HERGER, Ms. FALLIN, Mrs. BACHMANN, Mr. LATTA, Mr. POE of Texas, Mr. HUNTER, Mr. COLE, Mr. HARPER, Mr. FORBES, Mr. BRADY of Texas, Mr. GARRETT of New Jersey, Mr. PRICE of Georgia, Mr. WILSON of South Carolina, Mr. JORDAN of Ohio, Mr. PITTS, Mr. BONNER, Mr. CHAFFETZ, Mr. FRANKS of Arizona, Mr. SHADEGG, Mr. GOHMERT, Mr. LAMBORN, Mr. KING of Iowa, Mr. FLAKE, Mr. OLSON, Ms. FOXX, Mr. MARCHANT, and Mr. SMITH of Texas.
H.R. 2777: Ms. WATERS.
H.R. 2817: Ms. NORTON.
H.R. 2831: Mr. WELCH and Ms. SCHWARTZ.
H.R. 2842: Mr. INGLIS.
H.J. Res. 50: Mr. ROE of Tennessee and Mr. BUYER.
H.J. Res. 54: Mrs. MCMORRIS RODGERS, Mr. BARTLETT, Mr. JONES, Mr. MARCHANT, and Mr. MCHENRY.
H. Con. Res. 44: Ms. CLARKE, Mr. CLAY, Mr. CONYERS, and Ms. WATERS.
H. Con. Res. 48: Mr. FRANK of Massachusetts.
H. Con. Res. 128: Mr. INGLIS.
H. Con. Res. 131: Mr. BRADY of Texas, Mr. PAULSEN, Mr. ROGERS of Kentucky, Ms. ROS-LEHTINEN, Mr. ADERHOLT, Mrs. BIGGERT, Mr. BILIRAKIS, Mr. BISHOP of Utah, Mr. BONNER, Ms. GINNY BROWN-WAITE of Florida, Mr. BUYER, Mr. CALVERT, Mr. CAO, Mrs. CAPITO, Mr. CHAFFETZ, Mr. COFFMAN of Colorado, Mr. COLE, Mr. CULBERSON, Mr. DAVIS of Kentucky, Mr. DENT, Mr. DUNCAN, Mr. FLEMING, Ms. FOXX, Mr. GERLACH, Mr. GOHMERT, Mr. GOODLATTE, Mr. HASTINGS of Washington, Mr. HUNTER, Mr. INGLIS, Mr. KIRK, Mr. KLINE of Minnesota, Mr. LATOURETTE, Mr. LEWIS of California, Mr. LINDER, Mr. LUCAS, Mrs. LUMMIS, Mr. MARCHANT, Mr. MCCOTTER, Mr. MCHENRY, Mr. MICA, Mrs. MILLER of Michigan, Mr. GARY G. MILLER of California, Mrs. MYRICK, Mr. NUNES, Mr. PLATTS, Mr. POE of Texas, Mr. PRICE of Georgia, Mr. REHBERG, Mr. REICHERT, Mr. ROONEY, Mr. RYAN of Wisconsin, Mr. SCALISE, Mr. SCHOCK, Mr. SESSIONS, Mr. SHIMKUS, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. SOUDER, Mr. STEARNS, Mr. TERRY, Mr. TURNER, Mr. UPTON, Mr. WALDEN, Mr. WHITFIELD, Mr. WILSON of South Carolina, Mr. WITTMAN, Mr. GRAVES, Mr. PETRI, Mr. BARTLETT, Mr. BOEHNER, and Mr. THOMPSON of Pennsylvania.
H. Con. Res. 144: Mr. ALEXANDER, Mr. KENNEDY, Mr. GEORGE MILLER of California, Ms. SHEA-PORTER, Mr. THOMPSON of Mississippi, Mr. CAO, Mr. GUTIERREZ, Mr. SCOTT of Virginia, Mr. GORDON of Tennessee, and Ms. GIFFORDS.
H. Res. 69: Mr. INSLEE and Ms. GIFFORDS.
H. Res. 111: Mr. WEINER.
H. Res. 260: Mr. ROTHMAN of New Jersey.
H. Res. 285: Mr. ROYCE.

H. Res. 330: Mr. SHULER, Mr. ROSS, Mr. GRIFFITH, Mr. SESTAK, and Mr. KISSELL.

H. Res. 366: Mr. CONAWAY, Mr. NEUGEBAUER, Mr. OLSON, Mr. HENSARLING, Mr. BRADY of Texas, Mr. HALL of Texas, Mr. GOHMERT, Mr. CULBERSON, Mr. MCCAUL, Mr. CARTER, Ms. GRANGER, Mr. THORNBERRY, Mr. POE of Texas, Mr. SAM JOHNSON of Texas, Mr. BARTON of Texas, Mr. TIAHRT, Mr. WALDEN, Mr. SHADEGG, Mrs. BIGGERT, Mr. BUCHANAN, Mr. WESTMORELAND, Mr. WILSON of South Carolina, Mr. WHITFIELD, Mr. ROSKAM, Mr. LOBIONDO, Mrs. MCMORRIS RODGERS, Mr. DANIEL E. LUNGREN of California, Mr. HUNTER, Mr. SIMPSON, Mr. FRELINGHUYSEN, Mr. GERLACH, Mr. DEAL of Georgia, Mr. BROUN of Georgia, Mr. PRICE of Georgia, Mr. UPTON, Mr. ROONEY, Mr. DAVIS of Kentucky, Mr. MICA, Mr. BARRETT of South Carolina, Mrs. CAPITO, Mr. CAO, Mr. SHUSTER, Mr. REICHERT, Mr. BISHOP of Utah, Mr. AKIN, Mr. YOUNG of Alaska, Mr. ISSA, Mr. RADANOVICH, Mrs. BLACKBURN, Mrs. CAPPS, Ms. DEGETTE, Mr. STEARNS, Mr. SHIMKUS, and Mr. THOMPSON of Pennsylvania.

H. Res. 409: Mr. WILSON of South Carolina.

H. Res. 480: Ms. EDWARDS of Maryland.

H. Res. 521: Mrs. BLACKBURN, and Mr. SABLAN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H. R. 2300: Mr. PRICE of Georgia, Mr. SMITH of Texas, Mr. MCCOTTER, Mr. RYAN of Wisconsin, Ms. JENKINS, Mr. LAMBORN, Mrs. MYRICK, Mr. CULBERSON, Mr. BROWN of South Carolina, Mr. BONNER, Mr. SCALISE, Mr. BOUSTANY, Mr. GALLEGLY, Mr. SOUDER, Mr. CONAWAY, Mr. HERGER, Mrs. BACHMANN, Mr. PENCE, Mr. SULLIVAN, Mr. JORDAN of Ohio, Mr. COFFMAN of Colorado, Mr. LINDER, Mr. BROUN of Georgia, Mr. MCHENRY, Mr. CARTER, Mr. CHAFFETZ, Mr. WAMP, Mr. THOMPSON of Pennsylvania, Ms. FALLIN, Mr. AKIN, Mr. SAM JOHNSON of Texas, Mr. FLEMING, Mr. LUCAS, Mr. HOEKSTRA, Mr. YOUNG of Alaska, Mr. MANZULLO, Mr. BRADY of Texas, Ms. FOXX, Mr. HARPER, Mr. HENSARLING, Mr. FRANKS of Arizona, Mr. HUNTER, Mr. GINGREY of Georgia, Mrs. LUMMIS, Mr. MARCHANT, Mr. MCKEON, Mr. NEUGEBAUER, Mr. PITTS, Mr. SIMPSON, Mr. HELLER, Mr. POE of Texas, Mr. LEE of New York, Mr. WESTMORELAND, Mr. BURTON of Indiana, Mr. REHBERG, Mr. ALEXANDER, Mr. GOODLATTE, Mr. CASSIDY, Mr. RADANOVICH, Mr. LATTA, Mr. MCCAUL, Mr. SESSIONS, Mr. BOOZMAN, and Mr. THORNBERRY.

PETITIONS, ETC.

Under clause 1 of Rule XXII,

49. The SPEAKER presented a petition of the San Francisco Board of Supervisors, relative to RESOLUTION NO. 106-09 urging both the California State Legislature and United States Congress to establish a Do Not Mail Registry; which was referred to the Committee on Oversight and Government Reform.

DISCHARGE PETITIONS— ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petition:

Petition 3 by Mr. LATOURETTE on House Resolution 359: Fred Upton, Mac Thornberry, Kenny Marchant, Candice S. Miller, Todd Russell Platts, John Campbell, and George Radanovich.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2847

OFFERED BY: MR. OLSON

AMENDMENT NO. 1. In the item relating to ''Bureau of Census—periodic censuses and programs'', after the first dollar amount insert ''(reduced by $566,500,000)''.

In the item relating to ''National Aeronautics and Space Administration—exploration'', after the first dollar amount insert ''(increased by $566,500,000)''.

H.R. 2847

OFFERED BY: MR. PAULSEN

AMENDMENT NO. 2. At the end of the bill (before the short title) insert the following new section:

SEC. ____. None of the funds made available in this Act may be used to try an individual who is detained at Naval Station, Guantanamo Bay, Cuba, as of the date of the enactment of this Act, in any United States court.