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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland.

PRAYER

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

Let us pray.

Almighty God, who knows all things and from whom nothing is hidden; limitless, timeless, and unchanging, You told us in James 4:2 that we ''have not because we ask not.'' So, Lord, today, we again ask You to heal Senator KENNEDY. We claim for him Your promise in Isaiah 53:5 that ''with Your stripes'' he can be healed.

Lord, we also ask that You will fill this Chamber with Your glory; fill our minds with Your wisdom; fill our hearts with Your love. Guide our Senators in their deliberations. Remind them that when they feel overwhelmed, You have promised to give them Your wisdom. Lead them in the way of peace and unity, as You bind them together to keep our Nation strong.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN L. CARDIN led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 21, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CARDIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following the use of leader time, there will be a period of morning business until 12 noon, with Senators permitted to speak for up to 10 minutes each, with the majority controlling the first 30 minutes and the Republicans the next 30 minutes. The time from 11 a.m. until 12 noon today is reserved for tributes to former President Lyndon B. Johnson, commemorating the centennial of his birth. This afternoon, we expect to resume consideration of the House message with respect to the emergency supplemental appropriations bill. The speaking order during the time reserved for LBJ tributes will alternate between the majority and the minority.

As a reminder, cloture was filed last night on amendment No. 4803 related to domestic funding. Under rule XXII, the filing deadline for second-degree amendments is 1 hour prior to the cloture vote tomorrow.

Mr. President, we have second readings. But before getting to that, we also are trying to work out a time agreement, even today. Under the rule, the budget cannot be brought up until tomorrow afternoon at about 4 o'clock. But we can, by unanimous consent, move it to today. If we can work something out with the Republicans today, we will do that.

Last night, Senator CONRAD said he was going to confer with Senator JUDD GREGG, the ranking member of that committee, to see if there is a way we can move to that and shorten the hours. Statutorily, it is a 10-hour time limit. If we start on that tomorrow, the 10 hours would run into the next day.

We know Senator INOUYE and Senator STEVENS are not going to be here Friday. They are going to Senator INOUYE's wedding. Senator INOUYE is getting married. Senator STEVENS is his best man. So we need to try to finish that before Friday morning.

In addition to that, we have the veto override on the farm bill we need to complete. Now, on that there is no time limit. People can talk however long they want. I would hope we would not have to spend a lot of time on that bill. That bill has been debated about as much as anything needs to be debated. It had 81 votes when it left this Chamber. We would hope everyone would recognize we need to dispose of this as quickly as possible. I hope we can get those two matters going.

I have also made a suggestion to the Republican leader—I spoke to the floor staff last night, together with my floor staff—and there will be a decision made by the majority and the Republicans, through Senator MCCONNELL and me, today to see if we can arrive at some way to proceed reasonably to this emergency supplemental.

MEASURES PLACED ON THE CALENDAR—S. 3036 AND S. 3044

Mr. REID. Mr. President, there are two bills at the desk due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the titles of the bills for a second time.

The legislative clerk read as follows:

A bill (S. 3036) to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes.

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

A bill (S. 3044) to provide energy price relief and hold oil companies and other entities accountable for their actions with regard to high energy prices, and for other purposes.

Mr. REID. Mr. President, I object to any further proceedings with respect to these bills en bloc.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bills will be placed on the calendar under rule XIV.

RECOGNITION OF THE MINORITY LEADER

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

BUDGET CONFERENCE REPORT

Mr. MCCONNELL. Mr. President, let me say to my good friend, the majority leader, we would be happy to work out a process by which we could have the debate on the budget today. We would even be prepared to have the vote on the budget today, but I understand that is problematic.

Mr. REID. I think we could probably do that.

Mr. MCCONNELL. Well, that is something we could probably work toward, yes.

Mr. President, with regard to the budget, we have our differences in the Senate, but there are a few ideas that have wide bipartisan agreement. One is we need to rein in Federal spending, and another is we need to do our part to ensure that middle-class families keep more of the money they earn.

But the Democrats' latest budget shows we have a very different view of what these ideas mean. Our friends on the other side said they wanted to raise taxes on the rich and keep taxes low for working families. But this budget would provide for the average family a tax hike of $2,300 on people earning as little as $31,000 a year and couples making $63,000 a year. For a little perspective, first year schoolteachers in my hometown earn $35,982, and I do not think they consider themselves rich.

With rising gas prices and economic concerns, middle-class families are tightening their belts. Yet this budget would take more money out of the paychecks of these families to fill the Government's coffers. At a time when all Americans are watching their spending, shouldn't Washington be doing the same?

Not according to this budget, which does nothing to address entitlement spending and sets a new record—a new record—for nonemergency spending, topping the $1 trillion mark for the first time in American history. That is not a record I think we should be welcoming.

So I am a little confused as to why this budget is at odds with the Democrats' promise of keeping taxes low for working families and putting a stop to wasteful Washington spending.

It seems to me, if Congress was serious about letting Americans keep more of the money they earn, we would make tax relief permanent. If we were serious about reining in spending, we would pass a budget that calls for responsible growth. Instead, we are on the verge of passing a budget that goes in the opposite direction, contains the largest tax hike in U.S. history, and sets a new record for spending.

American families cannot afford this budget, American job creators cannot afford this budget, and our economy cannot afford this budget. I urge all of our colleagues to protect the American family's budget by voting against this budget when we have an opportunity to do that.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each, with the majority controlling the first 30 minutes, and the Republicans controlling the next 30 minutes, with the time from 11 a.m. until 12 noon reserved for Senators to make tributes to former President Lyndon B. Johnson, and the time equally divided and controlled between the two leaders or their designees.

The Senator from Michigan is recognized.

Ms. STABENOW. Thank you, Mr. President.

SUPPLEMENTAL APPROPRIATIONS

Ms. STABENOW. Mr. President, I rise today to speak about two items that are in the supplemental that has come from the House of Representatives. I find it difficult to speak about either one, but particularly the first one, without turning and looking behind me to see the great champion of the Senate, Senator TED KENNEDY, leading this debate and discussion.

The first item I want to talk about is how we help middle-class families, working families who have lost their jobs, to be able to keep their home, their dignity, and put food on the table while they look for that next job.

No one has been a greater champion—no one—in this body or anywhere in the country for working men and women, for folks who are working hard every day to meet the American dream, than our own Senator TED KENNEDY.

So as I speak today, I want to send my wishes, as my colleagues have—all of my colleagues from both sides of the aisle and every part of this building and this city—to say to TED that we miss you and we need you back and we are sending our love and our prayers to you and Vicki and the entire family because we need you. While we are very saddened about the news, we know—as you have championed and had such great courage in fighting for those who have needed a voice, who have needed a champion in the Senate—we know you will fight with the same vigor, and we will be right there with you to do everything we can to make sure you are back leading us, leading the charge.

I have stood on this floor many times with the great leader, the great Senator from Massachusetts, to talk about what is happening to families all across America. I represent a State with the highest unemployment rate in the country. Those in Michigan who are seeing their unemployment benefits expire, who are valiantly looking for work every day, have been looking to us to help them extend that insurance benefit until they can find a job.

We know there are 7.7 million people looking for work right now and competing for about 4 million jobs. So I am proud of the fact that our caucus, the Democratic caucus, has placed creating jobs at the top of the list of the budget resolution we will be discussing and voting on this week.

But in the meantime we have to do everything we can to support those families. In the supplemental that has come over from the House, I am very pleased they have included a greatly needed extension of unemployment insurance benefits because the reality is we have lost, since January, 260,000 good-paying American jobs, 260,000 middle-class jobs—the jobs that pay the mortgage, put food on the table, send the kids to college, buy clothing, pay for gas—which continues to grow outrageously higher every day.

Part of our responsibility is to make sure those families receive the insurance benefits they need while they pick up their lives, move in a new direction, find work, so they can continue to have the American dream.

Some of those families have members who are in Iraq or Afghanistan or around the world serving us right now. Unfortunately, we have too many families where one person—while we are grateful—is serving us in our armed services and the other breadwinner in the family has, in fact, lost their job. So there is a direct relationship between what we are doing to support the unemployed to be able to continue to look for work and to be able to care for their families in the meantime and what we are doing on this supplemental.

Mr. President, there is another incredibly important piece of supporting our troops that is in this legislation coming over from the House of Representatives. Again, I hear the voice of Senator KENNEDY championing this as well in terms of making sure we are doing everything possible for our troops, both when they are in harm's

way and when they are coming home, putting on a veterans cap and continuing to live their lives in America.

I am very proud to have cosponsored the 21st century GI bill. Senator WEBB has been our champion. This is bipartisan legislation. Today's veterans deserve the same opportunities and thanks that have been given to earlier generations.

This bipartisan bill has overwhelming support in both the Senate and in the House. Veterans service organizations and millions of veterans and Active servicemembers have raised their voices in support of this legislation.

I don't understand how anyone could fully support our troops by fully funding the needs of our troops and then oppose the GI bill. Full funding for our troops really does include the GI bill. That is what this is all about: making sure we are keeping our promises. The men and women who sign up, who are overseas now, who are in harm's way, who have lost limbs, who come home with post-traumatic stress syndrome, those who are willing to put their lives on the line for us expect us to keep our promises.

I am proud of the fact that our Senate Democratic majority made fully funding veterans health care a top priority when we came into the majority last year. We kept that promise. This is the first year since this war started that we have met the numbers the veterans organizations say are needed to be able to provide health care. This is the second piece we are committed to achieving and making sure we have a 21st century GI bill fit for the brave women and men who are serving us today.

Last week, as chair of our Steering and Outreach Committee, I was able to join 23 other members of our caucus, all of our leadership on the majority side, and we met with 21 members from veterans service organizations who were unanimous in supporting not only the GI bill that is included here, that has come from the House, that we so strongly support, but in saying this should not be a partisan issue, this should not be a political issue, this is the right thing to do. It is the right thing to do. It needs to be done for the right reasons. We owe it to our veterans to pass this. It is a critical part of what is in front of us. It is essential we make sure that when we leave here, we can hold our heads high and say we have provided full funding for our troops by funding the GI bill and including it in this legislation.

This bill will pay for qualified veterans to attend any public university in the Nation. If a veteran chooses to attend a private school, the bill would also allow that to happen. It would pay tuition up to the amount of the most expensive public school in the State, so every choice would be available for our veterans. Under the bill, private contributions would be matched by the Federal Government. There would be sufficient funding for desperately needed books. The costs go up every year. I can attest to that, having put two children through college and seen the incredible expense for books alone, as well as living expenses. Those things would be covered as well. We need to do this because when our veterans get a good college education, all of society benefits. Their family benefits, the community benefits, the country benefits.

Providing a college education for veterans is very important for our economy. World War II provided a great example of how the GI bill made it possible for our greatest generation to get an education, find good jobs, buy a home, contribute to the American economy, and raise their families.

I can speak to that directly. My father was in World War II. He was in the Navy. He came home as a veteran. Because of the GI bill, he was able to get an education, to be a small business owner, to raise a family—which I was very proud to be a part of—to send his kids to college, and to make sure we had what we needed to be able to live our American dream. It was the GI bill after World War II that gave my dad a chance. And through him and through that commitment to my father and to our family, it gave me a chance to be here today as well.

Today's veterans have served our country with the same honor and the same courage as those in World War II. They deserve the same benefits. They deserve the same opportunities, the same chance to shape their futures, the future of their communities, and the future of the American economy.

I also support this bill because it treats our Active-Duty Guard and Reserve Forces the same way through their wartime service. This is especially important now, as we know, as the Guard and Reserve take on a greater and greater share of the combat tours in Iraq and Afghanistan. It is no less important that Guard and Reserve members often return home to communities that don't have the same resources as the Active-Duty servicemembers have on base. So making sure our Guard and Reserve can attend college, can get an education, the skills they need to be successful, will help ease their transition into civilian life.

I stand with those who are supporting our brave men and women in the armed services and those who have served in the global war on terror. This bill is long overdue and should be enacted right now. That is what 21 veterans service organizations have said to us, and millions of veterans across the country. We have a duty to give our veterans what they deserve. They have offered the greatest sacrifice and should be given a chance for a solid education in these competitive times to become successful after their military service is done.

So, like the rest of the supplemental, this is full funding for our troops. It is full funding for our troops. We need to make sure they have what they need, not just on the battlefield but when they return home. We have kept the promise on health care, and our Senate Democratic majority is committed to continue to do that every year.

We have also been committed and are very pleased that the House sent to us a GI bill that we have been working on with leaders in our caucus, including Senator WEBB and certainly our leader, Senator REID, and many others, to make sure we keep the rest of the promise. We need a modern GI bill that fits what is happening for our veterans around the world, to make sure Guard and Reserve are treated with the same dignity and have the same opportunities as our Active-Duty personnel.

As we debate this supplemental, I sincerely hope we will not leave this Chamber without making sure that full funding for our troops includes the passage of this greatly needed GI bill.

Thank you, Mr. President. I yield the floor, and I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. TESTER. Mr. President, I rise today to discuss two important domestic priorities that are funded in the Senate's emergency supplemental. Those two priorities are the Secure Rural Schools and JAG/Byrne funding. These programs are critically important to Montana and rural America. I hope my colleagues continue to support them.

Last year, a 1-year extension of the Secure Rural School and Self-Determination Act was included in the emergency supplemental, giving much relief to rural counties.

We also narrowly lost the opportunity to pass a 5-year reauthorization during the debate on last year's energy bill. But now, today, we have the same opportunity to provide temporary relief while we work to provide the longer term funding solutions that our counties and schools deserve.

Why is this so important? Because county payments assist 600 rural counties and 4,400 schools in 42 States.

A majority of the counties in my State of Montana receive benefits from this program. Without an extension, these communities will suffer, and schoolteachers and county workers will be laid off.

Less money for rural schools means less opportunity for our rural students, lower teacher pay, bigger classroom size, fewer activities, and students who start to fall behind. Rural America's students deserve the same opportunities as their urban counterparts, and this program helps them to keep pace.

Fewer dollars for the counties mean higher local property taxes, poorer

roads, and local public work projects that do not get done. Overall, rural economies will suffer in a big way.

In the West, we are rich in public lands. One-third of Montana is in public ownership. Much of it is timberland. It only makes sense that the Federal owners help support local services.

These counties are, by nature, rural, and Secure Rural Schools funding makes up a large portion of their local budget. Without this extension, local communities will not be able to make ends meet. For these reasons, I hope the funding for Secure Rural Schools remains in the supplemental.

I also express my appreciation for the work of Senators WYDEN, BAUCUS, and others who have fought so hard to fund this program over the years. Rural America needs this support to continue.

Another issue I want to draw attention to is the JAG/Byrne funding used by America's drug task forces. These justice assistance grants help local law enforcement agencies fight drug dealers and manufacturers across this country.

There is $490 million in the supplemental to restore funding to this critical program that will bring the amount of last year's level up to $660 million.

Montana has seven drug task forces, which cover three-quarters of Montana's 56 counties. In 2007, Montana's Drugbusters received almost $1.3 million. This year, Montana is set to receive only $473,000. That is a loss of $817,000 in 1 year. The folks on the ground have told me they are going to have massive cutbacks in programs and in surveillance. In fact, 27 of the 49 agents statewide would be laid off. Three of the seven drug task forces would have to close their doors altogether.

Montana is the fourth largest State, geographically. It is too big and expansive for us to think we can keep a handle on drug traffickers with such limited resources. What would happen? More drugs would remain in our communities, more weapons in the hands of criminals, more crimes, and more children would be exposed to danger because they would be continually exposed to volatile situations, criminal behavior, and drugs. We do not want to go backward.

As a result of the efforts of Montana's Drugbusters, there has been a significant decrease in the number of meth labs. For instance, in 2002, there were over 120 labs. In 2006, thanks to the Montana Drugbusters, there were less than 10 labs in the State of Montana. This is great work and this work must continue.

Without the restoration of this funding, our efforts to limit drugs in Montana and throughout the country will be devastated. Our children's exposure to drugs and crime will be increased, and our families will be torn apart. Montana cannot afford it. No State can. Americans deserve better.

I know many of my colleagues share in my strong support for JAG/Byrne funding and county payments. I appreciate their help in developing and continuing these programs. I hope this supplemental, in the end, includes these important programs and that the President signs the supplemental into law.

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

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

The legislative clerk proceeded to call the roll.

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

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

APPROVAL RATING OF CONGRESS

Mr. CORNYN. Mr. President, this week we reached a milestone in Congress, because on Monday it was the 500th day since our friends on the other side of the aisle took control of both the Senate and House following the 2006 election. In those 500 days, we have seen congressional approval rating, according to Rasmussen Surveys, drop to 13 percent of the respondents who believe that Congress has performed in a good or excellent fashion. I believe one reason why we have seen this drop in Congress's public approval rating is because we have failed to address some of the biggest concerns that confront the American people.

Here is a chart. Four of the concerns are depicted here. The first number I mention here is the 96 days that Congress—specifically the House of Representatives—has failed to act to modernize the Foreign Intelligence Surveillance Act. The Foreign Intelligence Surveillance Act, of course, is the law that allows our intelligence community to listen to telephone conversations between foreign terrorists to learn of attacks being planned, so as to not only detect them but also to deter them and defeat our enemies. Why Congress would fail to act to reauthorize this important piece of legislation for 96 days, I think, can only cause us to scratch our heads and wonder what could possibly justify that effective blinding of our intelligence community to new threats and the kinds of threats that could make us safer, if detected, deterred, and defeated, and could make us safer here at home and make our troops safer in places such as Afghanistan and Iraq.

At the same time, we have been waiting 547 days for Congress to take up and pass the Colombia Free Trade Agreement. This is important to our Nation and it is important to my State. Last year alone, Texas sold $2.3 billion worth of goods and produce to Colombia, a large nation in South America. Because of tariffs that are currently imposed on those goods that are sold from Texas to Colombia, or from the United States to Colombia, it actually discriminates against my small business man and woman, against the manufacturer, against the producer of farm goods; whereas, Colombian goods coming into the United States because of another agreement have no similar tariff or financial discrimination.

If the Speaker of the House would take up the Colombia Free Trade Agreement, we could restore a level playing field and create more jobs in the United States because we would be creating more goods here in America to sell in Colombia.

Free trade is something that, amazingly, this Congress seems more and more afraid of, when, in fact, I think it is one of the ways out of our current economic doldrums. If we continue to create new markets for our goods and services across the world, that creates jobs at home. If there is anything like a stimulus package Congress could pass, free-trade agreements, such as the Colombia Free Trade Agreement, is one of them.

It is more important than that because Colombia, of course, is one of our very best allies in Latin America, sitting right next door to Hugo Chavez in Venezuela, someone who is not our friend and has declared us his enemy.

I have to think that Raul Castro and Fidel Castro in Cuba and Hugo Chavez in Venezuela are sort of chuckling to themselves, seeing how America is treating one of our very best allies in Latin America. In fact, it is President Uribe in Colombia who has been heroic in his fight against the narcoterrorists, known as the FARC, who recently, we found out, were not only in cahoots with Venezuela and Hugo Chavez but planning a lot of no good—buying arms, buying military materiel from Russia and other places right in our backyard, in Latin America. Why we would stiff-arm President Uribe in Colombia, one of our very best allies in Latin America, when it is in our self-interest to create more markets to sell American goods and services, frankly, is beyond me.

The next number is 692 days. This is how long some judicial nominees, nominated by President Bush, have been waiting for Senate confirmation.

We know the majority leader pledged to confirm at least three circuit court nominees before the Memorial Day break. We only have 2 more days left to go. Obviously, we are not going to meet that pledged goal. So 692 days with nominees waiting for a vote with no real end in sight. It is clear what is happening. It is an attempt to drag this out until the election is nigh upon us and then the majority leader can say: We can't get any more judges confirmed because we are going to have to wait for the Presidential election to see who will fill those vacancies. But to wait 692 days without even giving these nominees simply the courtesy of a hearing or an up-or-down vote is inexcusable. There is just no reason for it.

The last number on this chart is 758 days. That is the period of time since NANCY PELOSI, now the Speaker of the House, pledged to come up with a commonsense plan to reduce the price of gasoline. Mr. President, 758 days later, the price of gasoline is going through the roof, with no end in sight, and the price of oil, which makes up 70 percent of the cost of gasoline, is going through the roof, with no end in sight.

We have on this side of the aisle offered what I believe to be a very constructive plan to produce more American energy and rely less on imported energy from other parts of the world, and that was rebuffed by the majority. I am left to wonder, if the majority refuses to take advantage of American natural resources and reduce our dependency on imported oil from our enemies at the price of $3.75 a gallon, I wonder if they would reconsider when the price hits $4.75 a gallon or $5.75 a gallon? At what price will we finally wake up in Congress and recognize that the moratorium we passed some 30 years ago which banned the exploration for oil and gas on our Outer Continental Shelf, when oil was $7 a barrel and now is $127 a barrel, when will we reconsider that policy and decide it is in our national interest—our national security interest and our economic interest—to depend more on what God gave us in America, our natural resources, which can be developed in a way that is consistent with a good environment and in a way that is responsible?

It is irresponsible to simply ignore reality or to imagine that we in Congress can suspend the economic laws of supply and demand. As we have seen oil consumption worldwide go to about 85 million barrels a day, we know that countries such as China and India, with growing economies, are using more and more of that oil. So we are competing for a fixed supply of oil, and the law of supply and demand says: If you have a fixed supply but increasing demand, the price is going to continue to go up. But somehow Congress feels as if we can ignore that law or we can defy that law. We can no more defy the law of supply and demand than we can the law of gravity. I think the American people understand that, and I think they are bewildered, as I am, why Congress continues to defy this basic law of economics.

The bill that will be before the Senate today is a very important piece of legislation which bears further witness to why Congress is held in such low regard by the American people. It is because this bill which was designed to be an emergency supplemental appropriations to help fund our troops in harm's way in Afghanistan and Iraq has become a political football and a lot of unrelated projects have been added to this bill, which has caused the President to threaten to veto it, which the majority understands will simply slow down the process of getting these necessary funds, getting this necessary equipment that these funds would pay for, to our troops in harm's way.

Twenty-five days from now—Deputy Secretary Gordon England said that absent additional congressional action, ''the Army will run out of military personnel funds by mid-June and operation and maintenance funds by early July.'' In 25 days, unless Congress acts, the military will run out of personnel funds—that means money used to pay the military their paychecks each month—and will run out of operation and maintenance funds by early July.

I believe it is absolutely inexcusable that as we approach Memorial Day, the men and women of our military are left to wonder whether we will meet our obligation to make sure there is enough money available to pay their paychecks so their families can be provided for after June. While we all have talked about supporting our troops—and that is very important—how much more basic a way is there to support our troops than to make sure they are paid the money they are entitled to on a timely basis and not left to wonder whether Congress will meet that simple obligation? Talk is one thing; action, which would send a different message altogether, is another.

It is indisputable that these men and women in our U.S. military have made tremendous sacrifices for all of us. They have given not only their precious time, some have even given their lives to protect our way of life. Many of them have spent months, if not years, away from their families, missed birthdays, missed births, all in fulfillment of this noble duty to help keep the oppressed free and to protect our national security. Now they are left to scratch their heads and wonder what is going on again in Washington and whether politics is interfering with Congress's willingness to simply do its duty while they discharge their duties abroad.

This critical funding includes not only vital pay and allowances but also the tools our troops need to ensure they have safe passage through neighborhoods they patrol in Afghanistan and Iraq. I am referring to, in part, the Commander's Emergency Response Program, or the CERP. When I was in Baghdad and other places in Iraq in January, the commanding officers said that these are some of the most useful funds we have made available to them. Secretary Gates has called it ''the single most effective program to enable commanders to address local populations' needs. . . .'' These CERP funds will come to a standstill. Unless Congress acts on a timely basis without loading down this bill with a lot of pet projects and pork, it will come to a standstill. Why would we want to hamstring our commanders in the field in working with local populations to try to win their hearts and minds? As Secretary Gates pointed out, CERP is the key in the effort to get potential insurgents in Iraq and Afghanistan off the streets and into jobs.

Colleagues on both sides of the aisle have long acknowledged the importance of CERP funding. However, despite this acknowledgment, Congress has provided less than a third of what has been requested, and now providing those funds at all is left in some doubt. According to the Department of Defense, unless we provide the remaining $1.2 billion in CERP funds, the program will grind to a halt. What more important thing could we be doing in Iraq than trying to win the hearts and minds of former insurgents and get them deployed so that they lay down their guns and their bombs and engage in not only the political process but in the economic revitalization of that war-torn country. We all agree the Iraqis need to take more responsibility for rebuilding their country, and that is what these CERP funds are designed to ensure. Why in the world would we slow them down or fail to see that they are delivered?

Beyond CERP funds and troop paychecks, the lack of funding begins to also impact other areas. We will see furloughs of civilian employees of the Department of Defense if Congress does not act promptly. Unfortunately, this includes staff members at facilities such as child development centers which many of our troops depend on for daycare for their young ones. It would detrimentally impact services provided to troops and their families at military installations across America and around the world.

It is sad to note this is not the first time Congress has put our troops in this position. Once again, while our troops are waiting for critical funding, needed not only for their own well-being but for the completion of their mission, some of my colleagues will try to use this supplemental funding bill to advance pet projects or to resurrect a tired agenda. Once again, we have seen there will be an attempt to force yet another vote on the precipitous withdrawal of our troops from Iraq; that is, based on a political timetable handed down here in Washington rather than conditions on the ground which will lead to the likelihood of stability and ultimate success. Despite the countless debates we have had on this issue and despite the clear and undisputable evidence of both military and political progress in Iraq, my colleagues will again refuse to pass a clean supplemental bill to support our troops. This debate, of which we know the outcome, will do nothing but delay those funds going to our troops.

It is becoming increasingly evident that American troops and our Iraqi allies are making great progress in areas that were formerly labeled as hopeless. In the New York Times today, there is a story on the front page about how Sadr City, which was basically a no-man's zone, has now been stabilized by Iraqi troops themselves. Violence is down, and communities are fighting back against extremism. Life is slowly returning to normal. Refugees who previously fled that country are returning

home. What better could we hope for than to see these sorts of developments? Of course, this is thanks in large part to the sacrifices of our military and our military families.

We also need to acknowledge the great strides being made by the Iraqi Government. By reasonable estimates, the Iraqis have now met 12 of the 18 benchmarks Congress set for them, and they have begun to fight against extremism and senseless violence without regard to affiliation or sectarian identification.

The recent initiative that Prime Minister Maliki undertook in Basra is a good example of taking the initiative, of doing what we had hoped for, and that is taking the training that America and our coalition partners have provided and using that training to fight for themselves. The more the Iraqis stand and fight for themselves, the more American and coalition troops can stand down and ultimately come home.

I think it is important to point out to the American people that what was supposed to be an emergency supplemental appropriations bill is not limited to war-related measures, and this is designed to slow down this important piece of legislation. We know that not only are other pet projects and unrelated spending measures included, there are $10 million in unrelated emergency spending measures that perhaps might be justified in some other context, but we need to have this bill passed cleanly so we can get the money to the troops and so we can debate the merits of these various other programs at a later time. We should not use this bill for controversial policy measures.

Our troops, as well as the American people, deserve more open debate about complex issues—and here are four of them we need to act on—but we should not use this bill to try to get provisions passed without either adequate debate or adequate scrutiny. Things that could not be passed in the light of day should not be passed on this vehicle, this must-pass vehicle. The men and women who have made tremendous sacrifices to serve our country deserve more than to have to be asked to carry on their backs the political agendas of a few of their elected representatives.

Despite the looming shortfalls for military paychecks, the Senate does not seem all that concerned. Despite warnings by the Deputy Secretary of Defense that Congress must act before the Memorial Day recess, the majority leader recently told people it was no big deal if Congress did not. I respectfully beg to differ. Failing to supply a paycheck to our brave soldiers is an incredibly big deal. Playing politics at a time when our soldiers are being left to wonder whether they will be able to pay for their food bill, their gasoline bill, their health care or other items while Congress engages in this sort of gamesmanship is simply inexcusable.

So I think we could improve congressional approval ratings above the 13 percent who think we are doing a good or excellent job if we would simply act on this list of items which has been waiting, some for as many as 758 days, without a response from the Congress and if we would simply quit using something such as an emergency funding bill for our troops in harm's way in order to pass other unrelated pet projects or to try to impose other political agendas. I think if we acted responsibly, in a bipartisan way, to try to solve some of these problems, the American people would respond favorably. That would be good for them, that would be good for the country, and that would be good for the Senate and the Congress, generally.

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

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SENATOR KENNEDY AND THE WAR ON CANCER

Mrs. HUTCHISON. Mr. President, in about 20 minutes, I know we are going to turn pay tribute to Lyndon Baines Johnson. This is LBJ Day in the Capitol, and there are many speeches that will be made, there are many celebrations, there is a huge reunion of the LBJ family and his former staff people and supporters and Cabinet officers, and I am going to speak in that designated hour. But right now, in morning business, I would like to speak about another great Senator. I wish to speak about my colleague, Senator TED KENNEDY.

We all know we got a shock yesterday; that Senator KENNEDY has been diagnosed with a cancerous brain tumor, and he has just been released from the hospital. We are all so grateful he has been able to go to the comfort of his own home with his family as they are deciding how the treatment will go forward. But I wish to take a moment to talk about something we have been working on together.

If I could think of one word for Senator TED KENNEDY, it would be ''fighter.'' He is a fighter for the causes in which he believes. In his 46 years as a Senator, he has fought on behalf of the American people, waging so many battles to advance the causes of justice, opportunity, and peace. Now, he is set to wage the greatest fight of his life, and in that fight he has the support and prayers of all his colleagues and all the American people.

Senator KENNEDY's startling diagnosis comes the week after he and I announced our commitment to renew the war on cancer. For the last several months, Senator KENNEDY and I have been working on a bill to evaluate our progress on cancer research and treatment, address our shortcomings, and renew our commitment to eradicating this disease. There is no other person I would rather be working with on this initiative—now more than ever.

Senator KENNEDY's diagnosis is such a poignant reminder that the battle has not been won. On May 8, the committee he chairs—the Senate Health, Education, Labor and Pensions Committee—held a hearing to discuss the Kennedy-Hutchison bill. Advocates and survivors of cancer such as Lance Armstrong and Elizabeth Edwards spoke about the need for progress and reform in all areas of cancer research and treatment. In the 37 years since the national declaration of the war on cancer, the age-adjusted mortality rate for cancer is still very high. When it is compared to the mortality rates of other chronic diseases, it is extraordinarily high. While there have been substantial achievements since the crusade began, we are far from winning this war. Let's look at the statistics.

Today, one out of two men and one out of three women will develop cancer in their lifetime. In my home State of Texas, approximately 96,000 people are expected to be diagnosed with cancer and 35,000 are expected to die of cancer in 2008 alone. The NIH, the National Institutes of Health, estimates the overall cost of cancer to our Nation in 2007 was $219 billion.

These grim statistics should not belie the wealth of knowledge we have gained over the years, but it is time for legislation to address the shortcomings in the structure of cancer research and treatment. Senator KENNEDY and I are leading the effort to renew our war on cancer. We want to continue our search for cures, more effective treatments, and better preventive measures. The cancer community must embrace a coordinated assault against this disease. We must start looking at more cooperative efforts that focus on the big picture. The bill Senator KENNEDY and I will introduce is targeted at the following: removing barriers currently hindering our progress in cancer research and treatment; improving access to early detection measures and cancer care; reducing disparities in cancer treatment; increasing enrollment in clinical trials—this is a very important part that I think is one of the keys we are missing; and encouraging additional opportunities for cancer research and more cooperative cancer research.

Our bill will encourage the movement of medications and treatment from the laboratory to the bedside more quickly. It is time we started sharing more information. There is great research being done at many of our institutions—some in my home State of Texas and some in his home State of Massachusetts are the very best; in Maryland at Johns Hopkins; in Minnesota. We have wonderful research institutions. But we are not sharing the information enough. We need to

make sure this is a wholesale war and we are all in the same army, that we are marching in the same direction, and that we are coordinated in doing that.

As Senator KENNEDY wages his own personal war on this dreaded disease, he will also be leading America's war on cancer with the Kennedy-Hutchison bill that we will introduce in the Senate. So many times Senator KENNEDY has been the voice for the American people. He will truly be the voice for this bill to renew the war on cancer at this very difficult time in his life.

I know he is going to be standing on this floor, he is going to be negotiating this bill, he is going to be relentless in making sure it goes through with bipartisan support. We will work with the President—he will work with this President—because I have seen how he has worked with President Bush to further public education.

Senator KENNEDY and I are going to renew the war on cancer with a new vigor and we are going to do it together, and he is going to pass this legislation. I know he will be by my side in his fight and in his fight for the American people. We are going to support him at this time in every possible way.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I intend to speak about Senator KENNEDY at a later time in more depth. Certainly there have been a lot of Senators who have said a quiet little prayer for the complete recovery of Senator KENNEDY that would include other colleagues, some of whom we do not even know about. Certainly we know about the recurrence of the cancer in the Senator from Pennsylvania, Mr. SPECTER. We certainly know of the physical health challenges the President pro tempore, Senator BYRD, is going through. Since this is a Senate family, perhaps the world at large doesn't understand that political differences, just as in a real family, can keep people separated. But when there is a time of need and healing, the family comes together. That is certainly the case in what we feel about Senator KENNEDY, Senator SPECTER, Senator BYRD. But I will be speaking about that later.

LYNDON BAINES JOHNSON

Mr. NELSON of Florida. Mr. President, when Lyndon Johnson was Senator and majority leader, he had observed that during the Korean war, often the Soviet Union held the high ground because their MiGs could fly higher than our planes. Certainly as majority leader he went through the shocks that the entire Nation experienced when the Soviets surprised us by the launch of the first satellite, Sputnik. We knew then that the Soviet Union had the high ground. At that point the Nation came together, realizing we had a serious problem because we had an adversary that was dedicated to the elimination of the United States of America and that for our defense interests we clearly had to start doing something about it.

There is the whole story of that extraordinary time of the late 1950s when America came together, when we finally had to reach out to a group of German scientists. We were fortunate, at the end of World War II, to get to Peenumunde, Germany, before the Soviets did, in order to get most of those German rocket scientists, led by Werner von Braun. Ultimately that was the team to which we turned to produce the rocket that could get our first satellite—Explorer was its name—in orbit. But that was after we were shocked.

This Senate, this Congress, under the leadership of Lyndon Johnson, said we have to organize ourselves in a way that we can take this on. That was the birth of NASA, 50 years ago this year. NASA was the National Aeronautics and Space Administration. Now that acronym has become the noun; everybody knows it as NASA. It was the organization that was given the task after that majority leader put that through this Chamber and through the Congress, to have it signed into law by President Eisenhower, with all the ingredients in the law that would give us this Federal agency that could take on this daunting task.

Along comes the election of 1960 and Lyndon Johnson doesn't get the nomination but, because the nominee is smart enough to realize he has to bring together the party in a tough election, Lyndon Johnson is his Vice President. So they get into their first year in office and the Soviets surprise us again and they take the high ground when they launch Yuri Gagarin into one orbit.

Mind you, we didn't even have a rocket at that point that we could put a human on the top of that could get us to orbit. We were still operating off of that Army Redstone rocket that von Braun had successfully put up to put the first satellite in orbit, but it only had enough throw-weight, or power, to take that Mercury capsule with one human in it and put it into suborbit.

I remember when I was a young Congressman back in the 1980s, one day Tip O'Neill, the Speaker, saw me on the floor and he said: Bill, come here. He knew I had just flown in space. He wanted to tell me a story. As a young Boston Congressman, Tip O'Neill was down at the White House—the John Kennedy-Lyndon Johnson White House—and he said: I had never seen the President so nervous that day. He was pacing back and forth. He was just like a cat on a hot tin roof.

He asked one of the aides what is going on, and he realized that Kennedy knew that we were just about to launch Alan Shepherd, only in suborbit—and this is a few weeks after Gagarin has already taken the high ground. Of course it was then a second suborbit with Grissom, and it was 10 months later that America had John Glenn climbing into that Mercury capsule on top of an Atlas rocket that had a 20 percent chance of failure. Of course we know the rest of the story.

Interestingly, what happened in between that time when the Soviets had taken the high ground with Gagarin up, before we could get Glenn up for three orbits, the President made the decision—and it was a bold, new vision—and said we are going to the Moon and back within 9 years. But then he turned to his Vice President to implement it. Therein lay the idea and the secret to one of the most successful governmental and technological achievements in the history of humankind with the White House, specifically the Vice President, directing the way, giving complete carte blanche to their newly selected Director of NASA, Jim Webb, to go forth and do this magnificent technological achievement.

Of course we had to scramble. Even after we had John Glenn up, the Soviets still held the high ground. They did the first rendezvous in space. But then we started to catch up and of course America knows this wonderful success story in which we were able to go to the Moon and return safely, a feat that has not been accomplished by any others.

I come back to why I am standing on this floor today. America has had that success because of the then Vice President of the United States, Lyndon Johnson, who then became President and pushed that program on through to extraordinary success.

It is fitting that the space center that trains those astronauts is named the Lyndon Baines Johnson Space Center.

The PRESIDING OFFICER. The majority leader.

REMEMBERING LYNDON BAINES JOHNSON

Mr. REID. Mr. President, it is my understanding that the time between now and noon is set aside for remarks regarding President Johnson; is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. Mr. President, in the summer of 1908, a man named Sam Ealy Johnson, Sr., rode through the Texas hill country, announcing to whomever happened to pass by, ''A United States Senator was born this morning!''

The name of his grandson—Lyndon Baines Johnson.

I am pleased today to mark the beginning of the celebration for the 100th birthday of that boy from Texas who would not only be Senator, but Senate majority leader, Vice-President, and President of the United States.

There is a tradition on the floor of the Senate of which our colleagues but few Americans are aware.

If you open any of the desks in the Senate Chamber, you will find carved the names of each Senator who was assigned the desk in years past.

Among the names carved in my desk is Lyndon Baines Johnson.

America and the world know Lyndon Johnson as the President with a steady hand that guided our country through a deeply troubled era—and was the guiding hand in creating the Great Society.

But those of us in the Senate—and his family and dear friends who join us here today—know that it was this Senate Chamber—this Capitol Building—that was his home.

Born in the Hill Country of Texas, Lyndon Baines Johnson came to the Senate in 1948 after prevailing in one of the closest Senate contests in American history.

As my colleagues well know, most rookie Senators arrive in Washington resigned to spending a few years getting to know the rules and traditions of this body—biding their time and gaining seniority.

Not Lyndon Johnson. His rise to power was laser-fast.

He was appointed to the powerful Armed Services Committee within his first 2 years, and was elected assistant democratic leader—or majority whip—in 1951.

No Senator ever rose to the leadership of the Senate faster.

But Lyndon Johnson had good timing as well as talent as his allies.

In the 1952 election, Dwight Eisenhower was elected in a landslide, sweeping Republicans into power in both the House and Senate.

Among the defeated Democrats was Majority Leader Ernest McFarland of Arizona.

With just 4 years tenure, 4 years in the U.S. Senate, Lyndon Johnson became the Democratic leader of the Senate.

At the time, the positions of majority and minority leader took a backseat to the powerful committee chairmanships.

Lyndon Johnson had a different vision, and it is no exaggeration to say that he singlehandedly made the job of leader what it is today.

After establishing himself as the legislative and political leader of the Senate Democrats, Johnson was uniquely well-positioned in 1954, when Democrats regained the majority and he became majority leader.

What followed is the stuff of legend.

Based upon his philosophy that ''The only real power available to the leader is the power of persuasion,'' Lyndon Baines Johnson used that power to the fullest.

In just 1 day in 1956, Lyndon Johnson's Senate confirmed two appointments and passed 90 bills a record that may stand for all time.

The quantity of Johnson's Senate work was impressive, but so was the quality.

As an exhibit at the LBJ library says:

By working to find common ground uniting liberals and conservatives alike, LBJ's Senate passed legislation to increase the minimum wage, extend social security benefits, increase public housing construction, create an interstate highway system, create a national space agency and enact the first civil rights legislation since 1875. The majority leader's inspiration was the prophet Isaiah, who preached ''Come now, and let us reason together,'' a philosophy—and a result—that unquestionably and dramatically improved the lives of all Americans.

On behalf of my colleagues, I welcome members of Lyndon Johnson's family, his former staff, and friends of the Johnson family to the U.S. Senate to mark his 100th birthday and honor his life.

This celebration is tinged with sadness that his beloved wife Lady Bird passed away last year and is not with us today.

As President, Lyndon Johnson once said—''This nation, this generation, in this hour has man's first chance to build a Great Society, a place where the meaning of man's life matches the marvels of man's labor.''

Lyndon Baines Johnson's pursuit of a Great Society is a legacy that changed America forever and will last as long as our Republic stands.

Mr. MCCONNELL. Mr. President, I am honored to rise today to speak on the life and legacy of Lyndon Baines Johnson. He served his country as a teacher, naval officer, Congressman, Senator, Vice President, and finally President of the United States. In every stop along the way of his storied career, he blazed new boundaries of the possible in American politics.

When Lyndon Johnson first came to this body in January 1949, he was teased by his fellow Senators with the nickname ''Landslide Lyndon,'' due to his victory in the Texas senatorial primary election by just 87 votes. Within a few years he had taken the fastest path to being elected a floor leader in Senate history.

Johnson went on to serve as both minority leader and majority leader during the 8 years of the Eisenhower administration, and shaped legislation dealing with the Cold War, agriculture, labor and civil rights.

Lyndon Johnson showed the same compassion and courtesy to the Texas rancher or the destitute living in America's deepest pockets of poverty as he did to the powerful and the mighty. In fact, through his generosity of spirit, he made a friend out of one special Pakistani camel-cart driver.

Some of my colleagues who are old enough may remember that in 1961, as Vice President, Johnson toured the country of Pakistan and at one point stopped to meet an illiterate camel-cart driver named Bashir Ahmad.

Still displaying his Texan manners half a world away, the Vice President told the man, ''You all come to Washington and see us sometime.'' Imagine his surprise when Bashir Ahmad decided to take him up on his request.

But the quick-thinking Johnson turned his unexpected guest's visit into a boon for American-Pakistani relations. He met Ahmad personally at the airport, to see the man at the end of his first-ever jet plane ride.

Johnson treated his guest to a barbecue at the LBJ ranch in Texas, enabled him to step onto the floor of this U.S. Senate, and arranged for his visit to the Lincoln Memorial.

He even brought together the camel-cart driver and the former U.S. President, Harry Truman, who was so taken with Ahmad's eloquence that he referred to the Pakistani visitor as ''His Excellency.''

The final Johnson touch came just as Bashir Ahmad was about to board his plane for the ride home back to Pakistan. He opened a telegram from the Vice President which read: ''Since your return to Pakistan takes you so close to Mecca, arrangements have been made . . . for you to visit there.''

This was just one example of many of the canny Texan's consummate political skills.

Now just like Bashir Ahmad, I had the honor of being in Lyndon Johnson's presence once, and for a very momentous occasion. In August 1965, I came here, to our Nation's Capitol, to visit Senator John Sherman Cooper.

In 1964, after receiving my undergraduate degree from the University of Louisville, I worked as an intern for Senator Cooper and watched up close as he applied his wisdom and experience to the issues that gripped Kentucky and the Nation in the 1960s.

After completing my first year in law school, I came back to Washington to visit the Senator who had become my mentor and friend.

I was waiting to see Senator Cooper in his outer office when suddenly he emerged and motioned for me to follow him. We walked together from his office in Russell 125 to the Capitol Rotunda, where I saw more people, and more security, than I had ever seen before.

Then Senator Cooper told me what was happening: President Johnson was about to sign the Voting Rights Act, an act that was the culmination of Lyndon Johnson's years of effort in support of civil rights that had begun when he still served in the Senate.

Soon enough, the President emerged. Every good biography of President Johnson describes him as a larger-than-life man, with an imposing physical presence. Let me testify right now, from personal experience, that they are correct.

President Johnson seemed to tower a head taller than anyone else in the room. He was a commanding figure that immediately filled the Rotunda.

A journalist once described a typical Lyndon Johnson entrance as ''the Western movie barging into the room''—it's hard to put it better than that.

I was overwhelmed to witness such a moment in history. As he was about to sign the legislation that he would later point to as his greatest accomplishment, President Johnson said, ''Today is a triumph for freedom as huge as any

victory that has ever been won on any battlefield.''

Although I am sure that if my good friend Phil Gramm, the former Senator from LBJ's own Lone Star State, were here, he would add one more honor that ranked above all the rest: Lyndon Baines Johnson, Texan.

Today this U.S. Senate recognizes the legacy of Lyndon Baines Johnson and his many achievements. I join with my colleagues today in asking all Americans to celebrate the Lyndon B. Johnson Centennial.

Mr. DURBIN. Mr. President, in the opening pages of his acclaimed biography, ''Master of the Senate,'' Robert Caro describes Lyndon Johnson in his prime, as majority leader. He recalls how LBJ would come barreling through those swinging double doors in the Democratic cloakroom and stride out onto this floor—all 6-feet 4-inches of him—looking for that last vote he needed to carry his cause. He was, Caro said, like a force of nature.

As the Democratic whip, I have the privilege of occupying an office in this building that LBJ used when he was majority leader of the Senate. This afternoon, I had the privilege of meeting in that office with a longtime assistant of LBJ's, Ashton Gonella.

Mrs. Gonella regaled my staff and about how the office was arranged then, and what it was like to work for Lyndon Johnson.

She said that her desk was located in an outer office, just outside LBJ's office. At 5 o'clock each evening is when the real negotiating began, she said.

Part of her job was to spot a Senator as he walked down the hall, headed for an appointment with LBJ, and have that Senator's favorite drink mixed and ready for him by the time he reached her desk. The Senator would then walk in to see the majority leader and together, they would see if they couldn't find some way to reach an honorable compromise on the issue at hand.

Those were different days in the Senate. If you come to my office today, the strongest drink you are likely to be offered is a cup of coffee or a soda.

I tell that story about LBJ partly to illustrate a point: When it comes to negotiating compromises and finding that lost vote needed to pass a bill, few Senators in the history of this institution have ever come close to Lyndon Johnson.

Stiff drinks were only one of the many means he employed.

There is a famous series of photographs taken by a New York Times photographer. It shows LBJ as majority leader, trying to persuade Senator Theodore Francis Green of Rhode Island to see things LBJ's way. The photos depict what journalists used to call ''the full Johnson treatment.''

That experience was probably best described by the journalists Bob Novak and Rowland Evans in their book, ''Lyndon Johnson: The Exercise of Power.'' As they put it:

> The Treatment could last 10 minutes or four hours . . . Its tone could be supplication, accusation, cajolery, exuberance, scorn, tears, complaint, the hint of threat. It was all of these together. It ran the gamut of human emotions. Its velocity was breathtaking, and it was all in one direction . . . He moved in close, his face a scant millimeter from his target . . . his eyes widening and narrowing, his eyebrows rising and falling. From his pockets poured clippings, memos, statistics. Mimicry, humor and the genius of analogy made the Treatment an almost hypnotic experience and rendered the target stunned and helpless.

Almost always, the ''treatment'' succeeded.

He was a master of political power and persuasion. He knew how to accumulate power. More importantly, he knew how to use his political power to make government work. He believed that one of the purposes of government was to try to make America better and more just.

When he was 21 years old, Lyndon Johnson had an experience that had a profound and lasting effect on him. He was studying at Southwest Texas State Teachers College and he took a year off to teach poor Latino children in the little town of Cotulla, TX, near the Mexican border.

Nearly 40 years later, President Johnson spoke of those children and the impact they had on him. Proposing the Voting Rights Act to a joint session of Congress, then-President Johnson said, ''Somehow, you never forget what poverty and hatred can do when you see its scars on the hopeful face of a young child.''

He added:

> I never thought then, in 1928, that I would be standing here in 1965. It never even occurred to me in my fondest dreams that I might have the chance to help the sons and daughters of those students and to help people like them all over this country. But now I have that chance—and I'll let you in on a secret—I mean to use it.

When he was told that his support for the Voting Rights Act might cause problems for his Administration, LBJ reportedly replied: Well, what the heck's the presidency for? Only he used a different word than ''heck.''

As a Senator and as President, Lyndon Baines Johnson used what power he had to help give our Nation some of the most important legislation of the second-half of the 20th century—including the Civil Rights Act of 1957—the first civil rights bill in nearly a century—the landmark Civil Rights Act of 1965, the Voting Rights Act, the Elementary and Secondary Education Act, the Fair Housing Act—the list goes on and on.

He was not perfect, by any means. But he helped move America forward in many important ways.

Another phrase that Lyndon Johnson used often was a passage from the Book of Isaiah. It has been a favorite passage of his father's. ''Come, let us reason together.''

He believed that in a democracy, people could usually find an honorable compromise if they would just talk to each other and ''reason together.''

In this year of the centennial of his birth, our Nation would be well served if we would all take that lesson to heart.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I rise today to talk about one of the most significant Presidents of the 20th century, Lyndon Baines Johnson. Of course, I am especially proud that he is a Texan, my home State, and was the first President to be elected from Texas.

This is the 100th anniversary year of the birth of President Johnson. We all know, during his 6 years as President, he was a passionate advocate for equal rights and expanded opportunities for all Americans.

I did not know President Johnson personally because I was a freshman member, very new member of the Texas legislature, when he died in 1973.

But the gracious family, Lady Bird Johnson, that ever wonderful hospitable wife whom we all loved, wanted to make sure all the legislators in Texas were invited to his funeral. So I was able to attend at the Texas ranch, which of course was a beautiful tribute to his life in the place he loved the most.

Though I did not know him, I will certainly say that since I came to the Senate, I have heard story after story after story about his service in this body. The book about his life, called ''Master of the Senate,'' is considered required reading for all of us here.

Because, in fact, he was a master of this Senate. He did things as majority leader that had never been done before. I have been privileged to know his wonderful wife Lady Bird Johnson, who is one of our most loved First Ladies in the history of our country.

Lady Bird died last year, as was mentioned before. She, in her own light, left a legacy. He worked with her on many of the things she did. The beautification efforts Lady Bird contributed to our country are a part of the overall LBJ legacy. Of course, Head Start, which is one of the major accomplishments of the LBJ administration, giving every child that head start before they enter the first grade so there would be a more level playing field, was also a Lady Bird Johnson initiative.

They worked together to make sure the children of our country had that opportunity. I wish to talk a little bit more about that in a few minutes. But I do wish to mention two of the people I now consider among my real friends, Linda and Luci.

Linda and I went to the University of Texas together. We became friends there. She is a wonderful person. I have become friends with Luci as I have worked for the LBJ Library.

I will never forget, as long as I live, that I was in Austin and was promoting giving blood for one of the disasters,

and they needed more blood at the blood bank. I heard on the radio that Luci Johnson had gone to give blood after she heard I was there and promoting the giving of blood. That is the kind of person she is.

She and Linda truly carry on the legacy of their mother, Lady Bird who was a gracious, thoughtful, wonderful person.

Linda and Luci take after their mother, and, of course, the President whom we all appreciated so much for the leadership he gave. They had a wonderful partnership, where they filled in for what the other did not have.

Lyndon Johnson was born in Stonewall, TX, in 1908. After graduating from high school and spending a year as an elevator operator, he began his career in the field of education.

In 1927, he borrowed $75 and started attending Southwest Texas State Teachers College in San Marcos, which today is Texas State University. After graduating in 1930, he devoted a year to teaching Hispanic children at the Welhausen School in Cotulla, which is 90 miles south of San Antonio.

Decades later, when he was in the White House, President Johnson reminisced:

I shall never forget the faces of the boys and girls in that little Welhausen Mexican School, and I remember even yet the pain of realizing and knowing then that college was closed to practically every one of those children because they were too poor. And I think it was then that I made up his mind, that this Nation could never rest while the door to knowledge remained closed to any American.

Lyndon Johnson never did rest. After serving as a teacher and principal in 1935, he was appointed head of the Texas National Youth Administration. Then 2 years later, he ran for, and won, a seat in the U.S. House of Representatives. He was subsequently reelected to the House in every election until 1948 when he was elected to the Senate. He later went on the ticket with President John Kennedy. It was on November 22, 1963, that fateful day that none of us will ever forget, that Lyndon Johnson became the 36th President of the United States. During his Presidency, Lyndon Johnson moved aggressively to confront the problems that plagued America, especially the extraordinary challenge that had vexed our country since its very beginning, the challenge of racism.

In 1964, Lyndon Johnson used his formidable legislative skills, honed from his days right here in this Chamber as majority leader, to pass the Civil Rights Act. Then, in 1965, he pushed Congress to pass the Voting Rights Act.

The Civil Rights Act was the culmination of a decade-long civil rights movement led by Dr. Martin Luther King, Jr. But in a real sense, it was the fulfillment of a two-century struggle to give life to the words in our Declaration of Independence, ''that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.''

During his term in office, President Johnson also embarked on a war on poverty, creating government programs such as food stamps, the Job Corps, the Community Action Program, and Vista, among others. The war on poverty was a part of a larger initiative that President Johnson called the Great Society. One of the most important aspects of the Great Society was improving American education. President Johnson believed that every American needed a solid public education to turn the aspirations of the Great Society into reality. In his words:

We must open the doors of opportunity, but we must also equip our people to walk through those doors.

From 1963 to 1969, President Johnson signed over 60 education bills, including a pair of landmark achievements: the Elementary and Secondary Education Act and the Higher Education Act. He also launched Project Head Start. In a very real sense, he was America's first education President.

As President, Lyndon Johnson opened the doors of opportunity for millions of Americans, but he would be the first to acknowledge that we still have a long way to go. As a former teacher, he knew how important education was to the competitiveness of our country. Because of his achievements in the field of education, I worked with all of my colleagues to pass a bill last year naming the Department of Education headquarters after President Johnson. This is the only building in the District of Columbia that bears the name of our 36th President. While attending the naming ceremony last year, I couldn't help but think of Lyndon and Lady Bird Johnson looking down on us and smiling with pride.

I want to also mention something that my colleague, Senator BILL NELSON, mentioned because another of his legacies, of course, is NASA. We all remember when President Kennedy renewed our space initiative, but it was President Johnson who took that initiative—the wonderful words we all remember of President Kennedy, that we would put a man on the Moon—and implemented that vision and made sure that we had the wherewithal to do it. We needed the money. We needed to encourage scientists to propel us into space and put us eventually on the Moon. It was President Johnson, and we now have the Johnson Space Center near Houston, Texas, where we still remember the words: Houston, the Eagle has landed. When we did land on the Moon, it was the first words back to the Johnson Space Center that people heard Neil Armstrong say on that wonderful day.

As a Texan and an American, I am certainly proud of the achievements of President Lyndon Johnson. In his farewell speech, President Johnson said:

I hope it may be said, a hundred years from now, that by working together we helped make our country more just, more just for all its people, as well as to ensure and guarantee the blessings of liberty for all of our posterity.

It has been almost 40 years since that speech and 100 years since his birth. Looking back, I think we can safely say that our country is more just, and it is more prosperous, thanks in part to the leadership of President Johnson.

On this LBJ day in our Nation's Capital, let's remember a man who helped our country reach the promise of her founding document and gave us a vision of a better America that even now is worthy of our commitment. I am a cosponsor of the resolution honoring President Johnson's service and his positive legacy for our country.

I am pleased to note that in the gallery we have the President's family, and we have the President's extended family. He always considered the Members of his Cabinet, the members of his staff, his extended family. We have the people who are carrying on his legacy, the people who run the LBJ library and the LBJ school, which is such an important part of my alma mater, the University of Texas. It is such a wonderful place for students to come and learn about his era in office, public service. We are in the process of expanding and renovating the library, making sure the library stays the wonderful edifice that it is, with all of the wonderful artifacts in it. There will be a plaza called the Lady Bird Johnson Plaza that will also celebrate the beautification she gave to our country right there on the campus of the University of Texas. The people who are keeping that legacy alive are also with us today. The LBJ ranch that he loved so much, where he and Mrs. Johnson are buried, is also now a park. It is a State park and a national park where people can come and have the freedom to roam. They will be able to walk on trails. They will be able to see a great part of the State that I love so much and he loved so much. The fact that we are preserving that as a park will be one more way to show the love that he and Lady Bird Johnson had for our country.

This is a great day for us in the Capitol. I am proud to be a part of the resolution honoring this wonderful family.

I yield the floor.

Mr. CORNYN. Mr. President, I am pleased to come to the floor today to honor one of Texas' most famous leaders, President Lyndon B. Johnson. This year will mark the 100th anniversary of his birth, and the LBJ Foundation has chosen this week to honor his service to America in Washington, DC.

Texas has a rich history of men and women—often from humble beginnings—who work to accomplish great things. Lyndon Johnson was no exception. Johnson was born near Stonewall,

TX, nearly 100 years ago, to Texas legislator and poor farmer Samuel Johnson, Jr., and Rebekah Baines.

Johnson was a natural public servant. In his early days he studied at then Southwest Texas University's teaching college. One of his first teaching jobs was at a small school in Cotulla Texas for Mexican-American children. His work with those students would forever shape his dedication to those in need.

''[They] had so little and needed so much,'' he once remarked. ''I was determined to spark something inside them, to fill their souls with ambition and interest and belief in the future.'' This eagerness to help others would be a noble and defining characteristic of Lyndon B. Johnson.

While he spent time teaching at several schools across Texas, it was not long before Lyndon Johnson took his first foray into public politics.

Johnson quickly worked his way through the Texas State Legislature and into the U.S. House of Representatives, and eventually into the U.S. Senate.

The seat he took, I should note, is the same seat once held by another very famous Texan, Sam Houston. That same seat now carries a long and honored lineage, and it is my privilege to now serve in this esteemed seat.

Early on, Senator Johnson made a name for himself as a man of action, who would work across the aisle to pass important legislation, and who held an incredible power of persuasion. He quickly became majority whip, and eventually majority leader of the Senate.

I know that one of his greatest accomplishments in the U.S. Senate was the passage of the Civil Rights Act of 1957—a landmark bill to help ensure the right of all people to vote. Of course, Johnson's legacy as a staunch defender of civil rights would not end there.

Of course, Lyndon Johnson's presidency would come in the wake of national tragedy. Despite the conditions under which he took office, President Johnson helped console a nation in mourning, and ensure that America would recover—both physically and emotionally.

President Johnson continued the same fervent defense of Civil Rights in America that he had begun early in his life. He helped enact the Civil Rights Act of 1964, and the famous Voting Rights Act.

At the same time, Johnson worked tirelessly to ensure a better education for all American children, and was a key proponent of NASA and the space race.

Despite the turbulent times under which he served this country, President Johnson did his best to unite our country and promote a freer, more equal society. He will long be remembered for his great advances for the sciences, education, and civil rights—to name just a few accomplishments.

It is my pleasure to stand today and honor President Johnson for his service, not only to Texas, but to our Nation as a whole. In his service to our country he never forgot the many Texas values with which he was raised, and as such he and his wife, Lady Bird Johnson, became iconic figures in Texas History.

Mr. MENENDEZ. Mr. President, this year we celebrate the centennial of the birth of a man who dedicated his life to the proposition that all of us are created equal. A legislator, a president of the Senate, a President of the United States: Lyndon Baines Johnson.

It wasn't just that Lyndon Johnson was one of the first Presidents to care deeply about the well-being of people of color. It was that he was uniquely capable of turning that desire to help into results.

It is almost impossible to overstate the impact of the legislation he pushed through Congress, impossible to overstate how much better off we are as a nation thanks to his heroic efforts to guarantee civil rights voting rights and educational opportunity for all.

Whatever else people will note about Johnson's life, whatever disagreements anyone had with him, whatever brush historians will use to paint him, there is no one who can convincingly cast doubt on his very real devotion to the interests of the less fortunate.

In 1928, Johnson took time off from teacher's college to teach at a small school for young Mexican Americans in Cotulla, TX. Right before he signed the Higher Education Act in 1965, Johnson thought back on his time in the classroom.

He said:

I shall never forget the faces of the boys and the girls in that little Welhausen Mexican School, and I remember even yet the pain of realizing and knowing then that college was closed to practically every one of those children because they were too poor. And I think it was then that I made up my mind that this nation could never rest while the door to knowledge remained closed to any American.

I was 11-years old when he spoke those words. Seven years later, when it was time for a Latino kid from a working-class family to go to college, I could do it, because of educational assistance from the federal government, assistance Johnson had championed.

Because of him, I could go on to law school. Because of him, I felt that no door in public service could legitimately be closed to me. It is a powerful truth, and it is very clear: I would not be standing here today if it weren't for Lyndon Johnson.

If he were still standing here today himself, still a U.S. Senator, it is hard to believe there would be an atmosphere of hyperpartisanship. It is hard to believe that he would allow compassion to lose out to suspicion in guiding the business of our Nation.

If only he could be with us today, each time we are on the verge of a crucial vote that will test our conscience, if only all Senators could see Johnson's figure towering over them, feel his hand on their lapel, hear his voice in their ear, pushing the legislative process toward a just conclusion.

So as we remember his life this year, there is no better time to rededicate ourselves to the greatest of the principles for which he lived.

There is no better time to make sure that when we sit in the presiding chair, we swing the gavel for justice; that when we speak, we raise our voices for equality; that when we vote, we vote for compassion for fellow human beings regardless of the color of their skin, the language that they speak, or the country in which they were born.

Even in his absence, let us remember his conscience. Let us allow his memory to shame the shadows of bigotry out of this Chamber. And let us fill our hearts with his spirit, so in our Nation, the spirit of progress will endure.

The PRESIDING OFFICER (Mr. CASEY). The Senator from Hawaii.

Mr. INOUYE. Mr. President, in 1960, when I was a young Member of the United States House of Representatives, I had the high privilege and the great honor of seconding the nomination of Lyndon Baines Johnson for President of the United States at the Democratic National Convention in Los Angeles. But, as we all know, Senator John F. Kennedy was nominated. However, before the convention adjourned, Senator Johnson was selected as Senator Kennedy's running mate. In November of that year, the Kennedy-Johnson team prevailed by a very close margin. But in 1963, the tragedy of Dallas brought this winning combination to an abrupt and sad halt.

Lyndon Johnson succeeded President Kennedy, but it was sadly clear to all of Lyndon Johnson's friends that this was not the way he wanted to become President. Nonetheless, Lyndon Johnson assumed the awesome responsibilities of the Presidency and carried forward the unfinished work of President Kennedy.

A year after the assassination, Lyndon Johnson guided the Civil Rights Act of 1964 into becoming our Nation's landmark law on civil rights. It was a great step forward in the rights of men and women. It was also a great step forward for our Nation. But Lyndon Johnson did not stop. In 1965, he secured passage of the Voting Rights Act, opening polling places to all African Americans in the South. Two years later, he nominated the first African American to serve on the Supreme Court. His nominee, Thurgood Marshall, became recognized as one of the High Court's finest Justices. In fact, it was Lyndon Johnson who, during the 11-year period from 1957 to 1968, was behind the first five civil rights laws in our history, either as author or chief architect or primary sponsor.

For a southerner like Lyndon Johnson, taking such a leading role on civil rights took a special sort of courage. Yet he knew he was doing the right thing. He transformed the Emancipation Proclamation of more than 100

years ago into becoming a reality. Civil rights was one of the building blocks that President Johnson envisioned for the Great Society of America. His Great Society Program, which the Congress embraced, provided greater support for education, especially of poor children. From 1963 to 1968, Congress followed his lead and enacted more than 40 major laws to foster education. He also supported the arts and humanities by establishing the national endowments.

His Great Society declared war on poverty. He aided millions of older Americans with passage of the 1965 Medicare amendment through the Social Security Act. He also championed older Americans with the passage of legislation in 1967 against age discrimination in the workplace.

As President, Lyndon Johnson also worked for peace and the survival of mankind. In 1967, he secured the ban on atomic weapons in space, and this is the universal law at the moment. The following year, the Nuclear Non-Proliferation Treaty was signed, and it still stands. Unfortunately, Lyndon Johnson did not seek reelection in 1968 because of the war in Vietnam. But his legacy of leadership in both the Senate and the White House continues to this day.

The man from Texas will always loom large in the history of the United States. For me, it was a most special privilege and a great honor to have known and worked with Lyndon Baines Johnson.

The PRESIDING OFFICER (Mr. CASEY). The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I first came to the Senate in 1967 as a young aide to Senator Howard Baker and was here during the last two years of the Johnson Presidency. So, I heard firsthand stories about Lyndon Johnson, the Senator, and his larger-than-life, in-your-face personality with other Senators. I felt, in the elections of 1966 and 1968—which were my first in politics—how his support for civil rights legislation had made him a controversial President. I felt, also, at my age, the agony of the war in Vietnam. And I watched, with surprise, on television in 1968 when he said he would not run for another term in the Presidency.

Now, today, 40 years later, I see him as I think most Americans clearly see him: as one of our most consequential Presidents and public figures.

Every January or February, my youngest son and I go to Cotulla, TX. Senator HUTCHISON spoke of Cotulla, TX as the place where Lyndon Johnson taught in the elementary grades. I never cease to go to Cotulla, TX without thinking of what a remarkable comment it is upon our country to think that a graduate of San Marcos State could go to Cotulla, TX, and be teaching in an elementary school, and then 13 years later be in the Senate and on his way to being the Minority leader, the Majority leader, the Vice President, and then President of the United States.

There are many examples of how in our country anything is possible. I know of no better example than the life of Lyndon Johnson.

Others will say more about President Johnson and his contribution to the Senate and to our country, but today I want to say a few words about his family. My contemporaries were the Johnson children, Luci and Lynda, and especially Lynda and Chuck Robb. Chuck was Governor of Virginia when I was Governor of Tennessee. We have known each other well since that time.

I saw their daughter, Jennifer, this morning, and I can remember when she had our youngest son Will in a headlock one time at a Governors Conference. I can remember learning, either from Lynda or perhaps it was from Luci, lessons about how children—and the Presiding Officer will appreciate this, especially since his father was a distinguished Governor of Pennsylvania—about how to grow up in a family where your parents are public officials, as Senators or Governors or even Presidents, in their case.

One of the Johnson girls told me she did not like very much going to political events—our children were much the same—until one day their father, President Johnson, said: Let me make a suggestion to you. I want you to find one interesting thing about three people at the event you go to, and then come back to me afterwards and tell me what you found out. Lynda told me that changed the way she thought about going to those events. It gave her a way to go to them and make them more interesting. I told all of our children that, and they did it as well. It was good advice for children of parents in public life.

But in speaking of the family, I want to especially speak of Mrs. Johnson, Lady Bird, and her contribution to preserving the natural beauty of America.

Mrs. Johnson convened the first White House Conference on Natural Beauty, saying:

> Surely a civilization that can send a man to the moon can also find ways to maintain a clean and pleasant earth.

She became the de facto leader of the scenic conservation movement. She raised our consciousness about the natural world in our lives. It is fair to say she is probably the most influential conservationist in America since Teddy Roosevelt.

When I visit my wife's home in the State of Texas in the spring, there are bluebonnets everywhere. Texans are immensely proud of those flowers. In Austin—and Luci Baines reminded me today it is still going stronger than ever—is the Lady Bird Johnson Wildflower Center.

Many States copied Texas' idea of planting wildflowers in the interstate medians. Lady Bird and Lyndon passed the Highway Beautification Act to free us from highway billboard blight and rampant ugliness.

With her encouragement, President Johnson also persuaded Congress to pass the Wilderness Act, the Land and Water Conservation Fund Act, and the Wild and Scenic Rivers Act. She became the first woman to serve on the National Geographic Society's board of trustees.

President Johnson used to joke about how he would turn around and there would be Laurence Rockefeller and Lady Bird in the East Room of the White House cooking up some new conservation agenda for him to pass in the Congress.

Her legacy of natural beauty is secure, but because she is now gone, America's legacy of natural beauty is not so secure. We seem to have forgotten how much natural beauty is an essential part of our national character. Someone once said: Egypt has its Pyramids, Italy its Art, and our country the Great American Outdoors. Or, to put it less grandly, when I am at home in Tennessee, I see the streets named Scenic Drive and Blue Bird Lane, and I read the real estate ads describing the beautiful mountain views. And, if you ask Tennesseans why they live in Tennessee, even the most grizzled will say: Because there is not a more beautiful place in the world.

Many Americans feel that way about our hometowns. After Lady Bird, there have come a number of stronger and more outstanding environmental organizations devoted to clean air, clean water, and climate change, and more recently, other conservation causes. But most of them seem to have diminished interest in scenic beauty.

There was recently on the Senate floor an effort that nearly succeeded to gut Lady Bird's Highway Beautification Act. It would have allowed hundreds of illegal billboards to become legal. There has been almost no organized outcry about the profusion of thousands of cell towers along the same interstates and in the same communities that Lady Bird sought to protect from junkyards and billboards. These cell towers have replaced almost every available scenic view in America with a tall tower, usually ugly, always with blinking lights. And, most of it is unnecessary because they could have been co-located, or be smaller, or they could have been put below the ridge tops, or even camouflaged. And we still could have had access to our cell phones and our blackberries. The National Park Service even erected a cell tower in clear view of Old Faithful in Yellowstone National Park.

In our enthusiasm to deal with climate change, we are spending billions of dollars to encourage Americans to erect thousands of giant wind turbines that are twice as tall as football stadiums and can be seen for 20 miles, without thinking to pass legislation that would keep them away from our most scenic views, beaches, and mountaintops.

If Ansel Adams were alive today, he would probably be distraught because

he would have fewer and fewer beautiful places in America at which to aim his camera.

Lady Bird left America a legacy that honors an essential aspect of the American character, one that today is, unfortunately, too often ignored. If it continues to be ignored, it will never be undone. It is almost impossible to unclutter a highway or renew a view scape once that has been obliterated by ugliness.

So, I would hope that one result of this commemoration of Lyndon Johnson's birthday would be to encourage someone among us—or more among us—to revive in us Lady Bird's passion for the natural beauty of America, to encourage once again the planting of wildflowers, to preserve the view scapes, and to remind American communities of how satisfying it can be to live in one of the most beautiful places in the world.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, Lyndon Johnson has always been a personal hero to me. Every time I find myself in Austin, TX, I make a visit to the LBJ Library. Only for me, it is not a trip, it is more of a pilgrimage. I have been to that library so many times I think I could conduct a blindfolded tour by now.

I was just there a couple months ago. My favorite place in that library, of course, is the Great Society Room, with the plaques on the wall listing the incredible array of legislation and programs that Lyndon Johnson passed into law. You go down it and you read them all: the Civil Rights Act, the Voting Rights Act, Job Corps, VISTA, Upward Bound, the Food Stamp Program, legal services for the poor, the Community Action Program, Community Health Centers, Head Start, the Elementary and Secondary Education Act, the Higher Education Act, Medicare, Medicaid, the National Endowment for the Arts and Humanities, public broadcasting, the National Mass Transportation Act, the Cigarette Labeling Act, the Clean Air Act, the Wilderness Act—Mr. President, it takes your breath away when you look at what this one person, with a Congress, was able to accomplish.

So, Mr. President, I come to the floor today to talk about the ''failure'' of the Great Society. Yes, the ''failure'' of the Great Society. At least that is what I have been hearing ever since I first started running for office in 1972 and 1974, coming to the House, and then to the Senate. All those years I have heard from most of my friends on the other side of the aisle and the conservatives what a great ''failure'' the Great Society was. In fact, this supposed ''failure'' has become an article of faith among conservatives.

As President Reagan said on May 9, 1983:

The great expansion of government programs that took place under the aegis of the Great Society coincided with an end to economic progress for America's poor people.

So I thought I would come to the floor today to discuss the ''failures'' of the Great Society. Well, I wonder where to start. But I suppose a good place to start is with the great Civil Rights Act of 1964.

Think about it. Prior to that act, African Americans faced brazen discrimination and segregation—the American version of apartheid. In many parts of our country, African Americans could not eat in the same restaurants or at the same lunch counters as Whites. They could not use the same bathrooms, the same swimming pools, the same water fountains, the same motels, the same hotels. They literally were consigned, as we know, to the back of the bus.

Well, because of the Civil Rights Act of 1964, and Lyndon Johnson's championship of it, those Jim Crow laws and practices were ended in the United States of America. It became illegal to discriminate based on race, color, religion, gender, or national origin. Now we take it for granted that people of color, different nationalities, different religions are seen in our parks and playgrounds, our libraries, our swimming pools, our sports arenas, our motels and hotels, but it was not so long ago that this was not so. Hardly a ''failure.''

Another ''failure'' of the Great Society, of course, the Medicare Program. Let's take a look at that. At the bill signing ceremony on July 30, 1965, President Johnson enrolled former President Harry Truman as the first Medicare beneficiary and presented him with the first Medicare card.

We always talk about life after age 65 as the ''golden years.'' For many, prior to Medicare, life at 65 used to be the ''nightmare years''—with tens of millions of Americans unable to even afford basic medical care, condemned to living out their senior years in the misery of untreated or poorly treated illnesses or diseases.

Here, Mr. President, I want to get personal. See, my father, Patrick Harkin, was 54 years old when I was born. My father had an eighth grade education. Most of it he spent as a coal miner. Now, most people don't think there are coal mines outside of Pennsylvania or West Virginia, but Iowa at one time was the second largest coal-producing State in the Nation. Young kids who didn't go to school went to the coal mines. So my father worked for the greater part of more than 20 years in the coal mines. Later on in life, he suffered what they called then the miner's cough, which we now know is black lung disease.

My mother died when I was 10. My father was just about 65, and he had paid enough in, in the 1940s, to qualify for Social Security. So he had Social Security. He had three kids under the age of 18 and no money. He lived in this little two-bedroom house out in the middle of smalltown Iowa. But we had Social Security that kept us together. But I can remember it was like clockwork: Every year, every winter, my father would get sick. He had this miner's cough, and usually in the winter it would get worse and he would come down with pneumonia or something like that. Since we didn't have a car, one of my cousins or someone—and my father did not want to go to the hospital because we didn't have any money. He wouldn't see a doctor because we didn't have money. So one of my cousins or somebody would come over, and he would finally get so sick he couldn't stand it, and they would rush him to Mercy Hospital in Des Moines. Thank God for the sisters of mercy at Mercy Hospital. They would nurse him back to health, get him OK, send him back home. This happened like clockwork every winter. My father was always bothered by it. He was proud. He didn't like to accept charity. Heck, if left to his own devices, he probably would have died a long time before then because he just wouldn't have accepted that kind of medical care.

I can remember coming home on leave from the Navy for Christmas 1965. Now, I hadn't been paying too much attention—I was just trying to keep alive, so I wasn't paying too much attention to legislation and things such as that. I didn't mark the passage of the Medicare bill. I didn't know it even happened. As I said, I was just in the military doing my thing. But I can remember coming home on that Christmas break and seeing my dad, and he showed me his Medicare card. Now he could get medical care. He could go to the doctor. He could go and get taken care of before he got so sick he had to go to the hospital every time. You can't imagine what this was like for him. You see, he felt he had earned this through a lifetime of hard work, working for our country, raising a family. This was not charity. He had earned this. It was part of his Social Security.

So when someone tells me about Medicare, part of the ''failures'' of a great society—hardly a ''failure.'' I wonder why there aren't more people out here rushing to introduce bills to repeal it if it is such a great ''failure.'' It has saved so many people in our country, such as my father, who lived out the remainder of his years in a little bit better health because of Medicare. So it is very personal with me.

Another ''failure'' of the Great Society was the Higher Education Act. In 1965, it was rare for young people from disadvantaged and low-income backgrounds to go to college. The only way I got there is I had an NROTC scholarship because of the Navy. That was the only way I was able to go to college. So President Johnson passed the Higher Education Act, creating work-study programs, loans with reduced interest rates, scholarships, opening the door to college for tens of millions of Americans to have access to the American dream—again, hardly a ''failure''.

In August 1964, Lyndon Johnson signed into law the Food Stamp Act. Prior to that act, hunger was shockingly widespread in America, especially in Appalachia and rural parts of our country and in our inner cities. Thanks to the Food Stamp Program, hunger in America is rare. Tens of millions of Americans—more than half of them children—are ensured a basic nutritional minimum thanks to this program. The farm bill we just passed, with the Presiding Officer's help in getting it passed, expanded the Food Stamp Program. It took out some of the barriers to access, so families in America can get more access for their families and their kids.

In the State of the Union Address in 1988, President Reagan said that the Great Society ''declared war on poverty and poverty won.'' He said this in the State of the Union Address. It is another Reagan myth. Look at the facts. Look at the data. From 1963 until 1970, during the impact of the Great Society programs, the number of Americans living below the poverty line dropped from 22.2 percent to 12.6 percent. The poverty rate for African Americans fell from 55 percent to 27 percent. The poverty rate among the elderly fell by two-thirds. This is an amazing success.

What is unfortunate is that the poverty rate has not fallen significantly since 1970. Our progress has been stalled. Indeed, in the last few years, the gap between the rich and the poor in this country has grown dramatically. So we need a new generation of American leaders committed to reducing the gap. We need a new generation of leaders with Lyndon Johnson's passion and commitment to fighting poverty and hunger and homelessness and inequality and discrimination.

Any fairminded observer would say that LBJ's Great Society was far from a ''failure;'' it was a monumental success. The Great Society programs defined the modern United States of America as a compassionate, inclusive society, a genuine opportunistic society where everyone can contribute their talents and abilities. The Great Society is very much the living legacy of our 36th President. We see the Great Society today in cleaner air and water, young people from poor backgrounds going to college, seniors and poor people having access to decent medical care, and people of color exercising their right to vote and live in the neighborhood of their choice. We see the Great Society in Head Start, quality public schools, vocational education, college grants and loans—all those rungs on the ladder that people need to achieve the American dream, even those from humble, hardscrabble backgrounds, such as Lyndon Johnson himself or this Senator from Iowa.

Americans have a tendency to take for granted the achievements of the Great Society. But just imagine an America without Medicare, without the Civil Rights Act, without the Voting Rights Act, without title I of the Elementary and Secondary Education Act, without Head Start, without community health centers, without vocational education. I could go on and on. It would truly be a greatly diminished America, a less secure America, a less just America. And without the great companionship of Lady Bird Johnson, it would be a less beautiful America.

I know the Johnson family is here today, including Linda Bird, Lucy Baines, and their families, and many close friends and colleagues of President Johnson and members of his administration. I thank them for keeping the LBJ legacy alive and not letting it become invisible.

Before I close, let me quote from a small part of a speech that was given by Joseph Califano just this Monday at a luncheon here in Washington commemorating the legacy of Lyndon Johnson. Obviously we all remember Joe Califano being Lyndon Johnson's Secretary of Health, Education, and Welfare. Listen to what he said:

> Of even greater danger to our Nation, by making the presidency of Lyndon Johnson invisible, we lose key lessons for our democracy—courage counts and government can work—and it can work to the benefit of the least among us in ways that enhance the well-being of all of us.

I can think of no sentence that sums up the legacy of Lyndon Baines Johnson better than that.

Mr. President, I ask unanimous consent to have the full speech of Joseph Califano printed in the RECORD immediately following my remarks.

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

(See exhibit 1.)

Mr. HARKIN. Mr. President, as every truly great leader in our Nation's history, Lyndon Johnson brought us a giant step closer to achieving our highest ideals. He fought passionately for social and economic justice for all Americans. He fought to put the American dream within reach of every citizen. That is the legacy we salute today. That is truly the success—and not the ''failure''—of the Great Society.

Mr. President, I yield the floor.

EXHIBIT 1

SEEING IS BELIEVING:

THE ENDURING LEGACY OF LYNDON JOHNSON

(Keynote Address by Joseph A. Califano, Jr., May 19, 2008)

For many in this room, Lyndon Johnson's Centennial is a time for personal memories. We remember how LBJ drove himself—and many of us—to use every second of his presidency. We remember his five a.m. wake-up calls asking about a front page story in the New York Times—the edition that had not yet been delivered to our home; his insatiable appetite for a program to cure every ill he saw; his insistence that every call from a member of Congress be returned on the day it was received—even if it meant running the member down in a barroom, bathroom or bedroom; his insistence that hearings begin one day after we sent a bill to Congress; his pressure to get more seniors enrolled in Medicare, more blacks registered to vote, more schools desegregated, more kids signed up for Head Start, more Mexican-Americans taking college scholarships or loans; more billboards torn down faster—for the country, and for Lady Bird.

And we remember his signature admonition: ''Do it now. Not next week. Not tomorrow. Not later today. Now.''

We who served him saw that Lyndon Johnson could be brave and brutal, compassionate and cruel, incredibly intelligent and infuriatingly stubborn. We came to know his shrewd and uncanny instinct for the jugular of both allies and adversaries. We learned he could be altruistic and petty, caring and crude, generous and petulant, bluntly honest and calculatingly devious—all within the same few minutes. We saw his determination to succeed run over or around whoever or whatever got in his way.

As allies and enemies alike slumped in exhaustion, we saw how LBJ's relentless zeal produced second, third and fourth bursts of energy—to mount a massive social revolution that gave new hope to the disadvantaged. As he did so, he often created a record that Machiavelli might not only recognize, but also envy. To him, the enormous popularity of his unprecedented landslide victory, and every event during his presidency—triumphant or tragic—were opportunities to give the most vulnerable among us a fair shot of the nation's abundant blessings.

We saw these things. But somehow the world beyond—and even the people of his own party—seem not to see.

Throughout this year, and last week in endorsing Barack Obama, John Edwards made reducing poverty a centerpiece of his presidential campaign. Yet he never mentioned Lyndon Johnson, the first—and only—President ever to declare war on poverty and sharply reduce it.

A few weeks ago in his eloquent victory speech in Raleigh, North Carolina, Barack Obama followed a familiar pattern of omission. In recounting the achievements of previous Democratic presidents, he mentioned the pantheon of FDR, Harry Truman, JFK—but not LBJ. Not Lyndon Johnson—not the man who would be proudest of Barack Obama's candidacy and what it says about America, the president uniquely responsible for the laws that gave this man (and millions of others) the opportunity to develop and display his talents and gave this nation the opportunity to benefit from them.

Earlier in the campaign, when Hillary Clinton publicly noted that ''it took a President'' to translate Martin Luther King's moral protests into public laws, she broke the taboo and mentioned President Johnson. The New York Times promptly rebuked her in an editorial for daring to speak that name—and instantly things went back to normal: Lyndon Johnson was put back in his place as the invisible President of the twentieth century.

The reason, of course, goes back to Vietnam. The tragedy of Vietnam has created a dark cloud obscuring the full picture of Lyndon Johnson's presidency.

Without downplaying in any way the tragedy of the Vietnam war, I am convinced that to make Lyndon Johnson the invisible President—particularly for Democrats to indulge such amnesia as politically correct—is unfair not so much to him, but to our nation and its future.

Why? Because if we make Lyndon Johnson's whole presidency invisible—if we are unable or unwilling to speak his name—we become less able to talk about the lasting achievements of this nation's progressive tradition—a tradition that spans both parties over the last century. If we are unable or unwilling to see this President, we break the chain of history and deny our people an understanding of the remarkable resilience of

progressive tradition from Theodore Roosevelt, through Woodrow Wilson. Franklin Roosevelt's New Deal, Harry Truman's Fair Deal and John Kennedy's New Frontier, to Lyndon Johnson's Great Society.

Of even greater danger to our nation, by making the presidency of Lyndon Johnson invisible, we lose key lessons for our democracy: courage counts and government can work—and it can work to the benefit of the least among us in ways that enhance the well-being of all of us. Think about this: Americans under 40 have seen in Washington only governments that were anti-government, corrupt, mired in scandal, inept, gridlocked, driven by polls, favored the rich and powerful, or tied in knots by Lilliputian lobbyists and partisan bickering.

Talk to many Americans today about Washington and they're likely to say: it doesn't work; it doesn't care; it doesn't understand my problems; the special interests control it. Tell an American that Washington can work, it can help them, and they react like doubting Thomas: I won't believe it till I see it.

That's the political reality of our skeptical times: seeing is believing.

So as we begin our observance of this centennial in this critical political year, here is the question: Do we want to rekindle support for progressive ideas, for a modem progressive movement? If so, if we hope to restore belief in a government that serves and lifts up the many as well as the few, if we want to make government work again, then we must see our history more clearly and tell it more completely. We must see the full vision and achievement of Lyndon Johnson's presidency, the domestic revolution that he not only conceived, but carried out. Failure to do so not only distorts our past, it short changes our future. For there is a connection between seeing and believing—and also between seeing and achieving.

We live in an era of political microachievement. In recent years, it is considered an accomplishment when a President persuades Congress to pass one bill, or a few, over an entire administration: one welfare reform; one No Child Left Behind. Partisan attacks and political ambition choke our airways, not reports of legislation passed or problems solved.

What a contrast. In those tumultuous Great Society years, the President submitted, and Congress enacted, more than one hundred major proposals in each of the 89th and 90th Congresses. In those years of do-it-now optimism, presidential speeches were about distributing prosperity more fairly, reshaping the balance between the consumer and big business, rebuilding entire cities, eliminating poverty, hunger and discrimination in our nation. And when the speeches ended, action followed, problems were tackled, ameliorated and solved. This nation did reduce poverty. We did broaden opportunity for college and jobs. We did outlaw segregation and discrimination in housing. We did guarantee the right to vote to all. We did improve health and prosperity for older Americans. We did put the environment on the national agenda.

When Lyndon Johnson took office, only eight percent of Americans held college degrees; by the end of 2006, twenty-eight percent had completed college. His Higher Education legislation with its scholarships, grants and work-study programs opened college to any American with the necessary brains and ambition, however empty the family purse. Since 1965 the federal government has provided more than 360 billion dollars to provide 166 million grants, loans and work study awards to college students. Today six out of ten college students receive federal financial aid under Great Society programs and their progeny.

Below the college level, LBJ passed the Elementary and Secondary Education Act, for the first time committing the federal government to help local schools. By last year, that program had infused 552 billion dollars into elementary and high schools. He anticipated the needs of Hispanics and other immigrants with bilingual education, which today serves four million children in some 40 languages. His special education law has helped millions of children with learning disabilities.

Then there is Head Start, To date, more than 24 million pre-schoolers have been through Head Start programs in nearly every city and county in the nation. Head Start today serves one million children a year.

If LBJ had not established the federal government's responsibility to finance this educational surge, would we have the trained human resources today to function in a fiercely competitive global economy? Would we have developed the technology that leads the world's computing and communications revolution?

Seeing is believing.

In 1964, most elderly Americans had no health insurance. Few retirement plans provided any such coverage. The poor had little access to medical treatment until they were in critical condition, Only wealthier Americans could get the finest care, and then only by traveling to a few big cities like Boston or New York.

Consider the changes Johnson wrought. Since 1965, some 112 million Americans have been covered by Medicare; in 2006, 43 million were enrolled. In 1967, Medicaid served 10 million poor citizens; in 2006, it served 63 million people. The program is widely regarded as the key factor in reducing infant mortality by seventy-five percent—from 26 deaths for each 1,000 live births when Johnson took office to less than seven per 1,000 live births in 2004.

The Heart, Cancer and Stroke legislation has provided funds to create centers of medical excellence in just about every major city—from Seattle to Houston, Miami to Cleveland, Atlanta to Minneapolis. To staff these centers, the Health Professions Educational Assistance Act provided resources to double the number of doctors graduating from medical schools and increase the pool of specialists, researchers, nurses and paramedics.

Without these programs and Great Society investments in the National Institutes of Health, would our nation be the world's leader in medical research? In pharmaceutical invention? In creation of surgical procedures and medical machinery to diagnose our diseases, breathe for us, clean our blood, transplant our organs, scan our brains? In the discovery of ingenious prosthetic devices that enable so many of our severely wounded soldiers to function independently?

Seeing is believing.

Closely related to LBJ's Great Society health programs were his initiatives to reduce malnutrition and hunger. Today, the Food Stamp program helps feed some 27 million men, women and children in 12 million households. The School Breakfast program has served more than 30 billion breakfasts to needy children.

Seeing is believing.

It is not too much to say that Lyndon Johnson's programs created a stunning recasting of America's demographic profile. When President Johnson took office, life expectancy was 66.6 years for men and 73.1 years for women. Forty years later, by 2004, life expectancy had stretched to 75 years for men and 80 years for women. The jump was most dramatic among poor citizens—suggesting that better nutrition and access to health care have played an even larger role than medical advances.

For almost half a century, the nation's immigration laws established restrictive and discriminatory quotas that favored blond and blue-eyed Western Europeans. With the Immigration Reform Act of 1965, LBJ scrapped that quota system and put substance behind the Statue of Liberty's welcoming words, ''Give me your tired your poor, your huddled masses yearning to breathe free.'' This Great Society legislation refreshed our nation with the revitalizing energies of immigrants from southern and Eastern Europe, south of the border, Asia and Africa, converting America into the most multi-cultural nation in the history of the world and uniquely positioning our population for the Twenty-First century world of new economic powers. In the year before Immigration reform was passed, only 2,600 immigrants were admitted from Africa, less than 25,000 from Asia and 105,000 from Central and South America. With the lifting of the quotas, in 2006, 110,000 immigrants were admitted from Africa, more than 400,000 from Asia and 525,000 from Central and South America. I can't see LBJ eating at an Ethiopian or Sushi restaurant, but I can see him tapping into the intellectual acumen, diversity and energy of this new wave of immigrants.

Seeing is believing.

Lyndon Johnson put civil rights and social justice squarely before the nation as a moral issue. Recalling his year as a teacher of poor Mexican children in Cotulla, Texas, he once told Congress, ''It never even occurred to me in my fondest dreams that I might have the chance to help the sons and daughters of those students and to help people like them all over this country. But now I do have that chance—and I'll let you in on a secret—I mean to use it.''

And use it he did. He used it to make Washington confront the needs of the nation as no president before or since has. With the 1964 Civil Rights Act Johnson tore down, all at once, the ''Whites only'' signs and social system that featured segregated hotels, restaurants, movie theaters, toilets and water fountains, and rampant job discrimination.

The following year he proposed the Voting Rights Act. When it passed in the summer of 1965, Martin Luther King told Johnson, ''You have created a second emancipation.'' The President replied, ''The real hero is the American Negro.''

How I wish that Lyndon Johnson were alive today to see what his laws have wrought—especially the Voting Rights Act that he considered the most precious gem among the Great Society jewels.

In 1964 there were 79 black elected officials in the South and 300 in the entire nation. By 2001 (the latest information available) there were some 10,000 elected black officials across the nation, more than 6,000 of them in the South. In 1965 there were five black members of the House; today there are 42 and the black member of the Senate is headed for the Democratic presidential nomination.

Seeing is believing.

But LBJ knew that laws were not enough. Thus was born the concept of affirmative action. Johnson's conviction that it is essential as a matter of social justice to provide the tutoring, the extra help, even the preference if necessary, to those who had suffered generations of discrimination in order to give them a fair chance to share in the American dream.

LBJ set the pace personally. He appointed the first black Supreme Court Justice (Thurgood Marshall), the first black cabinet officer (Robert Weaver) and the first black member of the Federal Reserve Board (Andrew Britmmer). He knew that if executives

and institutions across the private sector saw qualified blacks succeeding in positions of high responsibility, barriers across America would fall—because for them, he knew, seeing was believing.

Less known, and largely ignored, was Johnson's similar campaign to place women in top government positions. The tapes reveal him hectoring cabinet officers to place women in top jobs. He created what one feminist researcher called in her book, Women, Work and National Policy, ''An affirmative action reporting system for women, surely the first of its kind . . . in the White House. . . .'' LBJ proposed and signed legislation to provide, for the first time, equal opportunity in promotions for women in the Armed Forces. Signing the bill in 1967, Johnson noted, ''The bill does not create any female generals or female admirals—but it does make that possible. There is no reason why we should not someday have a female chief of staff or even a female Commander in Chief.''

LBJ had his heart in his War on Poverty. Though he found the opposition too strong to pass an income maintenance law, he took advantage of the biggest ATM around: Social Security. He proposed, and Congress enacted, whopping increases in the minimum benefit. That change alone lifted 2.5 million Americans 65 and over above the poverty line. Today, Social Security keeps some thirteen million senior citizens above the poverty line. Many scholars look at Social Security and that increase. Medicare and the coverage of nursing home care under Medicaid (which funds care for more than 64 percent of nursing home residents) as the most significant social programs of the Twentieth Century.

Seeing is believing.

Johnson's relationship with his pet project—the Office of Economic Opportunity—was that of a proud father often irritated by an obstreperous child- For years conservatives have ranted about the OEO programs. Yet Johnson's War on Poverty was founded on the most conservative principle: put the power in the local community, not in Washington; give people at the grassroots the ability to walk off the public dole.

Today, as we celebrate LBJ's 100th anniversary some forty years after he left office, eleven of the twelve programs that OEO launched are alive, well and funded at an annual rate exceeding eleven billion dollars. Head Stan, Job Corps, Community Health Centers, Foster Grandparents. Upward Bound (now part of the Trio Program in the Department of Education), Green Thumb (now Senior Community Service Employment), Indian Opportunities (now in the Labor Department), and Migrant Opportunities (now Seasonal Worker Training and Migrant Education) are all helping people stand on their own two feet.

Community Action (now the Community Service Block Grant program), VISTA Volunteers and Legal Services are putting power in the hands of individuals—down at the grassroots. The grassroots that these programs fertilize just don't produce the manicured laws that conservatives prefer. Of all the Great Society programs started in the Office of Economic Opportunity, only the Neighborhood Youth Corps has been abandoned—in 1974, after enrolling more than 5 million individuals.

Ronald Reagan quipped that Lyndon Johnson declared war on poverty and poverty won. He was wrong. When LBJ took office, 22.2 percent of Americans were living in poverty. When he left five years later, only 13 percent were living below the poverty line—the greatest one-time reduction in poverty in our nation's history.

Seeing is believing.

Since Lyndon Johnson left the White House, no president has been able to effect any significant reductions in poverty. In 2006 the poverty level stood at 12.3 percent. Hillary Clinton in her presidential campaign has promised to create a cabinet level poverty czar in her administration. In the administration of Lyndon Baines Johnson, the President was the poverty czar.

Theodore Roosevelt launched the modern environmental movement by setting aside public lands and national parks and giving voice to conservation leaders like Gifford Pinchot. If Teddy Roosevelt launched the movement, Lyndon Johnson drove it forward more than any later President—and in the process, in 1965, he introduced an entirely new concept of conservation:

''We must not only protect the countryside and save it from destruction;'' he said, ''we must restore what has been destroyed and salvage the beauty and charm of our cities. Our conservation must be not just the classic conservation of protection and development, but a creative conservation of restoration and innovation.''

That new environmental commandment spelled out the first inconvenient truth: that those who reap the rewards of modem technology must also pay the price of their industrial pollution. It inspired a legion of Great Society laws: the Clean Air, Water Quality and Clean Water Restoration Acts and Amendments, the 1965 Solid Waste Disposal Act, the 1965 Motor Vehicle Air Pollution Control Act, the 1968 Aircraft Noise Abatement Act. It also provided the rationale for later laws creating the Environmental Protection Agency and the Superfund.

Johnson created 35 National Parks, 32 within easy driving distance of large cities. The 1968 Wild and Scenic Rivers Act today protects 165 river segments in 38 states and Puerto Rico. The 1968 National Trail System Act has established more than 1,000 recreation, scenic and historic trails covering close to 55,000 miles. No wonder National Geographic calls Lyndon Johnson ''our greatest conservation president.''

Seeing is believing.

These were major areas of concentration for Lyndon Johnson's Great Society, but there were many others. Indeed, looking back, the sweep of this President's achievements is breathtaking.

Those of us who worked with Lyndon Johnson would hardly consider him a patron of the arts. I can't even remember him sitting through more than ten or fifteen minutes of a movie in the White House theatre, much less listening to an operatic aria or classical symphony.

Yet the historian Irving Bernstein. in his book on The Presidency of Lyndon Johnson, titles a chapter. ''Lyndon Johnson, Patron of the Arts.'' Think about it. What would cultural life in America be like without the Kennedy Center for the Performing Arts, where each year two million visitors view performances that millions more watch on television, or without the Hirshhorn Museum and Sculpture Garden that attracts 750,000 visitors annually? Both are Great Society initiatives.

The National Endowments for the Arts and Humanities are fulfilling a dream Johnson expressed when he asked Congress to establish them and, for the first time, to provide federal financial support for the Arts to increase ''the access of our people to the works of our artists, and [recognize] the arts as part of the pursuit of American greatness.''

LBJ used to say that he wanted fine theater and music available throughout the nation and not just on Broadway and at the Metropolitan Opera in New York. In awarding more than 130,000 grants totaling more than four billion dollars since 1965, the Endowment for the Arts has spawned art councils in all 50 states and more than 1,400 professional theater companies, 120 opera companies, 600 dance companies and 1,800 professional orchestras. Since 1965, the Endowment for the Humanities has awarded 65,000 fellowships and grants totaling more than four billion dollars.

Johnson established the Corporation for Public Broadcasting to create public television and public radio which have given the nation countless hours of fine arts, superb in-depth news coverage, and programs like ''Sesame Street'' and ''Masterpiece Theater.'' Now some say there is no need for public radio and television, with so many cable channels and radio stations. But as often as you surf with your TV remote or twist your radio dial, you are not likely to find the kind of quality broadcasting that marks the more than 350 public television and nearly 700 public radio stations that the Corporation for Public Broadcasting supports today. They, as well as the rest of the media, have been helped by the Freedom of Information Act, the Great Society's contribution to greater transparency in government.

Seeing is believing. So is listening.

For urban America, LBJ drove through Congress the Urban Mass Transit Act, which gave San Franciscans BART, Washingtonians Metro, Atlantans MARTA, and cities across America thousands of buses and modernized transit systems. His 1968 Housing Act, creation of Ginnie Mae, privatization of Fannie Mae and establishment of the Department of Housing and Urban Development have helped some 75 million families gain access to affordable housing.

In the progressive tradition in which Theodore Roosevelt and Franklin Roosevelt confronted huge financial and corporate enterprises, Johnson faced a nationalization of commercial power that had the potential to disadvantage the individual American consumer. Super-corporations were shoving aside the corner grocer, local banker, independent drug store and family farmer. Automobiles were complex and dangerous, manufactured by giant corporations with deep pockets to protect themselves. Banks had the most sophisticated accountants and lawyers to draft their loan agreements. Sellers of everyday products—soaps, produce, meats, appliances, clothing, cereal and canned and frozen foods—packaged their products with the help of the shrewdest marketers and designers. The individual was outflanked at every position.

Seeing that mismatch, Johnson pushed through Congress a bevy of laws to level the playing filed for consumers: Auto and highway safety for the motorist a Department of Transportation and National Transportation Safety Board; truth in packaging for the housewife; truth in lending for the homebuyer, small businessman and individual borrower; wholesome meat and wholesome poultry laws to enhance food safety; the Flammable Fabrics Act to reduce the incendiary characteristics of clothing and blankets. He created the Product Safety Commission to assure that toys and other products would be safe for users. When he got over his annoyance that it took him five minutes to find me in the emergency room of George Washington University Hospital, with my three year old son Joe who had swallowed a bottle of aspirin, he proposed the Child Safety Act which is why we all have such difficulty opening up medicine bottles.

Seeing is believing.

By the numbers the legacy of Lyndon Johnson is monumental. It exceeds in domestic impact even the New Deal of his idol Franklin Roosevelt. It sets him at the cutting edge of the nation's progressive tradition. But there is also an important story behind these programs that speaks to the future—that offers the lessons of what it takes

to be an effective President. What lessons does this President have for our nation and his successors, especially those who value the progressive tradition?

First, Lyndon Johnson was a genuine, true believing revolutionary.

His Texas constituency and the tactical constraints of his earlier offices reined him in before he became President. But his experiences—teaching poor Mexican American children in Corolla, Texas, working as Texas director of Roosevelt's National Youth Administration, witnessing the indignities that his black cook, Zephyr Wright, and her husband Gene Williams, suffered during his senate years when they drove from Washington to Texas through the segregated south—fueled his revolutionary spirit.

He saw racial justice as a moral issue. He refused to accept pockets of poverty in the richest nation in history. He saw a nation so hell bent on industrial growth and amassing wealth that greed threatened to destroy its natural resources. He saw cities deteriorating and municipal political machines unresponsive to the early migration of Hispanics and the masses of blacks moving north. To him government was neither a bad man to be tarred and feathered nor a bag man to collect campaign contributions. To him government was not a bystander, hoping wealth and opportunity might trickle down to the least among us. To LBJ, government was a mighty wrench to open the fountain of opportunity so that everyone could bathe in the shower of our nation's blessings. He wanted his government to provide the poor with the kind of education, health and social support that most of us get from our parents.

Second, Lyndon Johnson was perpetually impatient, relentlessly restless, always in a hurry.

Andrew Marvell's words could have been written for him: ''But at my back I always hear/Time's winged chariot, hurrying near.'' Lyndon Johnson saw himself in a desperate race against time as he fought to remedy the damage slavery and generations of prejudice had inflicted on black Americans. Why? Because he feared that, once black Americans sensed the prospect of a better life, the discrimination they had once accepted as inevitable would become intolerable; they would erupt—and, subvert their own cause. ''Hell,'' he said to me during some of those eruptions, ''Sometimes when I think of what they've been through, I don't blame them.''

He saw himself in a race against time as he sized up Congress, political reality and attitudes of affluent Americans. LBJ knew that he must use—now!—the sympathy generated by John Kennedy's assassination and the huge margin of his own election victory in 1964. He knew that his political capital—no matter how gigantic in the early days of his presidency—was a dwindling asset.

Third, Lyndon Johnson was a man of extraordinary courage.

For me the greatest price our nation pays for our collective blindness is this: By rendering LBJ invisible we lose sight, for the future, of how much a truly courageous political leader can accomplish.

Sure, LBJ had the politician's hunger to be loved. But, more than that, he had the courage to fall on his sword if that's what it took to move the nation forward. He did just that when, in an extraordinary act of abnegation, he withdrew from the political arena to calm the roiling seas of strife and end the war in Vietnam.

To me no greater example of Presidential political courage exists than Lyndon Johnson's commitment in the area of civil rights. He fought for racial equality even when it hurt him and clobbered his party in the South.

After signing the Civil Rights Act in 1964, Johnson was defeated in five southern states, four of them states that Democrats had not lost for 80 years.

Still he kept on. In 1965 he drove the Voting Rights Act through Congress. In 1966, he proposed the Fair Housing Act to end discrimination in housing. His proposal prompted the most vitriolic mail we received at the White House, and Congress refused to act on the bill that year.

In the November 1966 mid-term elections, the Democrats lost a whopping forty-seven seats in the House and three in the Senate. Border and southern state governors met with the President at his ranch in December. In a nasty assault on his civil rights policies, they demanded that he withdraw his fair housing proposal and curb his efforts to desegregate schools.

Undeterred, in 1968, he drove the Fair Housing Act through the senate—tragically it took Dr. King's assassination to give Johnson the leverage he needed to convince the House to pass it.

You have to see political courage like that to believe it. I was fortunate to see it close up. I want our people and future leaders to be able to see it.

Fourth, Lyndon Johnson knew how to use power.

Johnson married his revolutionary zeal, impatience and courage to a phenomenal sense of how to use power skillfully—to exploit a mandate, to corral votes, to reach across the aisle in order to move this nation, its people and the Congress forward.

Lyndon Johnson felt entitled to every lever, to help from every person, every branch of government, every business, labor and religious leader. After all. as he often reminded us, he was the only President we had. He had no inhibitions in reaching out for advice, ideas, talent, power, support. He often saw traditions of separation of powers. or an independent press, or a profit-minded corporate executive, as obstacles, to be put aside in deference to the greater national interest as he defined it. He was brilliantly opportunistic, calling upon the nation and the Congress in the wake of even the most horrific tragedies—the assassinations of John Kennedy and Martin Luther King—to bring a new measure of social justice to all Americans.

He knew how to harness the power of the protestors and the media to tap into the inherent fairness of the American people. He asked Martin Luther King in January 1965 to help with the Voting Rights Act by ''getting your leaders and you yourself . . . . to find the worst condition [of voting discrimination] that you run into in Alabama . . . . and get it on radio, get it on television, get it on—in the pulpits, get it in the meetings, get it every place you can . . . . and then that will help us on what we are going to shove through in the end.'' He loved King's choice of Selma, Alabama. He knew, as he told Dr. King, that when the American people saw the unfairness of the voting practices there, they would come around to supporting his bill. And they did.

He offers a defining lesson in the importance of mustering bipartisan support. These Great Society proposals were cutting edge, controversial initiatives and LBJ assiduously courted Republican members of congress to support them. His instructions to us on the White House staff were to accord Senate Republican minority leader Everett Dirksen and House minority leader Gerald Ford the same courtesies we extended to Senate Majority leader Mike Mansfield and House Speaker John McCormack. It was not only that he needed Republican votes to pass bills like the civil rights, health, education and consumer laws: he saw bipartisan support as an essential foundation on which to build lasting commitment among the American people. He knew that the endurance of his legislative achievements, and their enthusiastic acceptance by state and local governments, powerful private interests and individual citizens across the nation, required such bipartisan support.

He didn't accomplish all he wanted. He called ''the welfare system in America outmoded and in need of major change'' and pressed Congress to create ''a work incentive program, incentives for earning, day care for children, child and maternal health and family planning services.''

He saw the threat posed by the spread of guns and proposed national registration of all gulls and national licensing of all gun owners. Congress rejected his proposals. But he did convince Capitol Hill to close the loophole of mail order guns, prohibit sales to minors, and end the import of Saturday night specials.

He tried, unsuccessfully, to get expand Medicare to cover pre-natal care and children through age six, and used to say, ''If we can get that, future presidents and Congresses can close the gap between six and sixty-five.''

He spotted the ''for sale'' signs of political corruption going up in the nation's capital and called for public financing of campaigns.

Our nation and its leaders pay a heavy price when such a towering figure—among the most towering political figures of American history—becomes at the same time America's invisible president. In this year, when for the first time in our history a black American is a leading candidate for the Presidency, when so many domestic issues dominating the campaign—access to health care, persistent poverty amidst such plenty, affordable higher education, effective public schools, environmental protection—are issues LBJ put on the national government's agenda, it is time to see the full measure of this President. Too many lessons of his presidency have been ignored because the Democratic party, the academic elite, political analysts and the mainstream media have made him the invisible president.

In this troubled time, when political pollsters and consultants parse the positions of candidates for public office, Johnson's exceptional courage on civil rights should be a shining example for a new generation of political leaders. His recognition of the significance of bipartisan support for controversial—but needed—domestic initiatives, and his ability to muster such support, should be studied by politicians and citizens who seek to change the world. His unique ability to make Washington work. to nourish and maintain partnerships between the Executive and the Congress, the public and private sectors, and to focus the people on critical needs like racial justice and eliminating poverty demonstrate ''Yes, we can!'' to skeptical citizens who have never seen Washington get it done.

It's time to take off the Vietnam blinders and let our eyes look at and learn from the domestic dimension of this presidency. Let everyone think what they will about Vietnam. But let us—especially Democrats—also recognize the reality of this revolutionary's remarkable achievements.

It is encouraging to me that some of Johnson's severest anti-war critics have begun the call for recognition of the greatness of his presidency.

Listen to the words of George McGovern who ran for president in 1972 on an anti-war platform and maintains that ''The Kennedy, Johnson and Nixon administrations were all wrong on Vietnam:''

''It would be a historic tragedy if [LBJ's] outstanding domestic record remained forever obscured by his involvement in a war he did not begin and did not know how to

stop.. . . . Johnson did more than any other president to advance civil rights, education and housing, to name just three of his concerns. . . . ''

'' The late John Kenneth Galbraith, another leading critic of the Vietnam War, has called for ''historical reconsideration'' of the Johnson presidency:

''In the New Deal ethnic equality was only on the public conscience; in the Kennedy presidency it was strongly urged by Martin Luther King and many others. . . . It was with Lyndon Johnson, however, that citizenship for all Americans in all its aspects became a reality. . . . On civil rights and on poverty, the two truly urgent issues of the time, we had with Johnson the greatest changes of our time. . . . The initiatives of Lyndon Johnson on civil rights, voting rights and on economic and social deprivation. . . . must no longer be enshrouded by that [Vietnam] war.''

And listen to Robert Caro, LBJ's most meticulous and demanding biographer:

''In the twentieth century, with its eighteen American presidents, Lyndon Johnson was the greatest champion that black Americans and Mexican Americans, and indeed all Americans of color, had in the White House, the greatest champion they had in all the halls of government. With the single exception of Lincoln, he was the greatest champion with a white skin that they had in the history of the Republic. He was . . . the lawmaker for the poor and the downtrodden and the oppressed . . . . the President who wrote mercy and justice into the statute books by which America was governed.''

Historian David McCullough has said that the threshold test of greatness in a president is whether he is willing to risk his presidency for what he believes. LBJ passes that test with flying colors. It's time for all of us to give his presidency the high marks it deserves.

Lyndon Johnson died 36 years ago in 1972. But his legacy endures. It endures in the children in Head Start programs in hamlets across our nation, in the expanded opportunities for millions of blacks, Hispanics and other minorities. It endures in the scholarships and loans that enable the poorest students to attend the finest universities. His legacy endures in the health care for the poor and the elderly that are woven into the fabric of American life. It endures in the public radio stations millions of drivers listen to as they drive to and from work. It endures in the cleaner air we breathe, in the local theatres and symphonies supported by the National Endowments, in the safer cars we drive and safer toys our children play with.

Seeing is believing.

That legacy also endures—let us remember—in the unfinished business of our nation's long progressive movement that he pressed so impatiently for us to finish. LBJ knew that movement could be stalled, but he knew that it must never be stopped.

So, over these few days, as we look back and celebrate this centennial, let us also look forward and let us inspire others to see clearly and fully.

Because seeing is not only believing; seeing has everything to do with achieving.

SEEING IS BELIEVING: THE ENDURING LEGACY OF LBJ

WITH THESE ACTS PRESIDENT JOHNSON AND CONGRESS WROTE A RECORD OF HOPE AND OPPORTUNITY FOR AMERICA

1963

College Facilities, Clean Air, Vocational Education, Indian Vocational Training, Manpower Training.

1964

Inter-American Development Bank, Kennedy Cultural Center, Tax Reduction, Farm Program, Pesticide Controls, International Development Association, Civil Rights Act of 1964, Water Resources Research.

War on Poverty, Criminal Justice, Truth-in-Securities, Food Stamps, Housing Act, Wilderness Areas, Nurse Training, Library Services.

1965

Medicare, Medicaid, Elementary and Secondary Education, Higher Education, Bilingual Education, Departent of Housing and Urban Development, Housing Act, Voting Rights.

Immigration Reform Law, Older Americans, Heart, Cancer, Stroke Program, Law Enforcement Assistance, Drug Controls, Mental Health Facilities, Health Professions, Medical Libraries.

Vocational Rehabilitation, Anti-Poverty Program, Arts and Humanities Foundation, Aid to Appalachia, Highway Beauty, Clean Air, Water Pollution Control, High Speed Transit.

Manpower Training, Child Health, Community Health Services, Water Resources Council, Water Desalting, Juvenile Delinquency Control, Arms Control, Affirmative Action.

1966

Child Nutrition, Department of Transportaton, Truth in Packaging, Model Cities, Rent Supplements, Teahers Corp, Asian Development Bank, Clean Rivers.

Food for Freedom, Child Safety, Narcotics Rehabilitation, Traffic Safety, Highway Safety, Mine Safety, International Education, Bail Reform.

Auto Safety, Tire Safety, New GI Bill, Minimum Wage Increase, Urban Mass Transit, Civil Procedure Reform, Fish-Wildlife Preservation, Water for Peace.

Anti-Inflation Program, Scientific Knowledge Exchange, Protection for Savings, Freedom of Information, Hirshhorn Museum.

1967

Education Professions, Education Act, Air Pollution Control, Partnership for Health, Social Security Increases, Age Discrimination, Wholesome Meat, Flammable Fabrics.

Urban Reserch, Public Broadcasting, Outer Space Treaty, Modern D.C. Government, Federal Judicial Center, Deaf-Blind Center, College Work Study, Summer Youth Programs.

Food Stamps, Urban Fellowships, Safety at Sea Treaty, Narcotics Treaty, Anti-Racketeering, Product Safety Commission, Inter-American Bank.

1968

Fair Housing, Indian Bill of Rights, Safe Streets, Wholesome Poultry, Community Exchange Rules, School Breakfasts, Truth-in-Lending, Aircraft Noise Abatement.

New Narcotics Bureau, Gas Pipeline Safety, Fire Safety, Sea Grant Colleges, Tax Surcharge, Housing Act, International Monetary Reform, Fair Federal Juries.

Juvenile Delinquency Prevention, Guaranteed Student Loans, Health Manpower, Gun Controls, Aid-to-Handicapped Children, Heart, Cancer and Stroke Programs, Hazardous Radiation Protection, Scenic Rivers.

Scenic Trails, National Water Commission, Vocational Education, Dangerous Drug Control, Military Justics Code, Tax Surcharge.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I see the arrival of my seatmate, a great friend, ROBERT C. BYRD, and with permission, I would like to speak for about 2 minutes, if that is all right. I know he has some important words.

Before he leaves the floor, I wish to commend my colleague from Iowa, TOM HARKIN. Tom and I arrived in the Congress together 34 years ago in January of 1973. I have listened to him give eloquent speeches but none better than the one he just gave regarding Lyndon Johnson—not only the importance of the man but the importance of his work and what a better country we are today. We are not that more perfect union yet, but we are getting there. One major step in that direction was created by Lyndon Johnson and a guy by the name of TOM HARKIN who has carried on that tradition as well. So he would be very proud of you. I thank the Senator from Iowa for his remarks this morning.

I have some brief thoughts before deferring to my seatmate and dear friend, ROBERT C. BYRD of West Virginia.

Let me just say to all, we often reflect on the impact this institution has had on the United States, on our beloved country. But on this day, I think we cannot help but consider the impact certain Americans have had on this institution and on our great Republic. At this moment, we reflect not on legislative accomplishments, which are Herculean, as Senator HARKIN has identified—appropriately so, and with great eloquence—or even how that might have changed the fabric of our country—it certainly did—but, rather, on the strength of character required by those who made such achievements possible.

I wish to join my colleagues and others here today reflecting upon and paying tribute to one of this great institution's most revered figures on this centennial anniversary of his birth: the former Senate majority leader, the 35th President of this body and the 36th President of the United States, Lyndon Baines Johnson.

Emerson wrote that:

None of us will ever accomplish anything excellent or commanding except when he listens to this whisper, which is heard by him alone.

If that is true, then when the whisper traveled through the winds sweeping across the Pedernales River in the plains of central Texas, Lyndon Johnson must have been listening carefully, indeed.

I think we all believe that a society such as ours should aspire to greatness, aspire to that more perfect union our forefathers envisioned. But Lyndon Johnson understood something else of what was required of leaders to get us there: the importance of building alliances, however unorthodox; the ability to find agreement, even with those whom we most disagree with; and perhaps most importantly, Lyndon Baines Johnson recognized that this institution could achieve the most remarkable of things if its Members were willing to do the kind of work that more often than not was decidedly unremarkable.

It was his Herculean skills in the legislative arena, of course, honed on this very floor and in these Halls, that proved such a complement to the wonderful rhetorical flourishes of those

who identified the great goals we must achieve. But armed with his skills—his maneuvering, his understanding of his fellow Members, of what they could tolerate, what they could agree with, how far they could move—Lyndon Johnson was able, in his very hands, to mold the successful results of which TOM HARKIN spoke so eloquently. In the absence of that ability, a lot of these achievements would have been nothing more than rhetorical flourishes. It took the brilliance of a legislator—not unlike the skills of the gentleman who sits next to me here this morning, ROBERT C. BYRD—to be able to fashion and create the very legislative achievements we talk about. Indeed, it is often said that it took the hardscrabble southerner from Texas to broker a Civil Rights Act. I don't know of anyone who would disagree with that or with the long litany of legislative achievements TOM HARKIN has identified. But I think it does in a sense a disservice to just identify what was perhaps Lyndon Johnson's greatest skill, and that was moving a political body reluctant to change, as most political bodies are.

To be sure, I would be remiss if I were not to mention my father's relationship with Lyndon Johnson as well. I sit at the desk my father occupied in this body for the more than 10 years he served here. But that relationship went back a lot longer than their years here. My father, as a young law school graduate at the outset of the New Deal, became the first State Director of the National Youth Administration in 1933, and Lyndon Johnson was a young man beginning his career in Texas politics and was running a similar program in that State.

Their relationship started in the 1930s and blossomed during their years in public service in this very institution. I am sort of a creature of this place, in many ways, having grown up here. I was a mere child of 8 when my father came to Congress in 1952, and then to the Senate in 1959, with my seat-mate, Senator BYRD. I sat in the family gallery in 1959 and watched him take the oath of office. Three years later, I sat on the floor, dressed like these young men and women, as a Senate page and watched Lyndon Johnson maneuver through this building. In those days, there were no television cameras or microphones that can carry your voice through the halls of this room and beyond. I would watch Lyndon Johnson at this table in front of me here. Members would gather around because you could not hear everything he said—intentionally, I might add, as he was careful that not everything he said was necessarily heard by everyone about the schedule of the Senate, or he may have been talking about achievements that were made. I was here for some of the all-night sessions when the civil rights debates were going on. I developed friendships, which I still hold today, with the other young pages I worked with in those early days.

Lyndon Johnson and my father and Lady Bird and my mother had a great relationship. I have shared with Lynda, Luci, and their families that I remember vividly Mrs. Johnson being at our home. My mother and she would meet with Mercedes Douglas, Justice Douglas's wife, to practice Spanish together. They had a great relationship over the years. I remember vividly, as well, President Johnson and Lady Bird Johnson hosting a surprise wedding anniversary party for my parents at a restaurant here in Washington one evening, as they celebrated their 35th wedding anniversary. So there are family ties that run long and deep.

I remember in 1964, when Lyndon Johnson very graciously invited my father and Hubert Humphrey to come to the White House on the eve of the Vice Presidential nomination in Atlantic City. There was no doubt that Humphrey would be the choice, but it was the gracious act of a President to recognize a friendship he had with this young man from Connecticut, going back to the 1930s, that he invited him to be part of that raising the expectation that he might be chosen as a Vice Presidential running mate for Lyndon Johnson. My father seconded Johnson's nomination in 1960 when I was a page, as well, and watching history unfold.

So it is with great joy that I come to the floor this morning to celebrate a remarkable life that made a huge difference. When students ask us—as they oftentimes do—''can any one person make a difference in the life of other people?'' you need look no further than the initials LBJ. It is a story of how one individual, as TOM HARKIN said, born in the hardscrabble territory of central Texas, grew up and served in this body, managed this institution, produced the results he did, and became President of a country that allowed us to achieve the great achievements of the 1960s.

We are all beneficiaries of Lyndon Johnson's legacy. It is highly appropriate, not only today, this week, or in the year of this centennial anniversary, and with great frequency, to remind the young people sitting here today as pages that these great achievements didn't happen miraculously. They weren't given out with a gracious heart of those who fought. They were won in hard-fought battles that produced these results. Our generation, your generation, will have to fight hard, too, to make sure we are going to achieve good things and learn the lessons of Lyndon Johnson—how hard he fought to make a difference in his country and in the world in which we live.

I am honored to be joining those who today celebrate the life, celebrate an achievement our country benefited from, and as long as we survive as a republic, the legacy of Lyndon Baines Johnson. It is a great moment that we ought to remember and cherish for years and years to come.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, today the Senate marks the 100th anniversary of the birth of Lyndon Baines Johnson. The Senate has changed much, in a sense; in another sense, it has changed little since the days when Senator and Majority Leader Johnson strode through these halls and presided over this great body.

I was fortunate to serve with Majority Leader Lyndon B. Johnson. I was fortunate to serve with President Lyndon B. Johnson. And although most Americans remember Lyndon B. Johnson in his role as President of the United States, it is as majority leader and Senator that I especially recall Lyndon B. Johnson.

As I noted upon his death in 1973:

> In his heart, [he] was a man of the Senate. He had a deep and abiding faith in this body, and its place in the past and the future history of this Republic.

It is, therefore, most fitting on the centennial of Lyndon Johnson's birth that he be remembered here in this Senate that he loved.

Lyndon Baines Johnson was the majority leader when I came to the Senate in 1959, and from my first day in the Senate, and for the next 2 years, Senate Majority Leader Lyndon Johnson was a mentor and friend, as well as a leader, to me. At that time, my colleagues, the Senate had a long tradition that a newcomer to the Senate would not be assigned to the more important Senate committees. Yet—hear this, my colleagues—Majority Leader Lyndon B. Johnson placed me on the Appropriations Committee, even though there were several other more senior Members who coveted a position on that prestigious committee. The rest, as they say, is history, still in the making, because I, ROBERT C. BYRD, am still on the Appropriations Committee.

Whenever I went to Lyndon B. Johnson with problems concerning my State of West Virginia, in every instance Majority Leader Johnson was considerate and, in every instance, Majority Leader Johnson tried to be helpful to me. I acknowledged that support and leadership, not only to me but to the Senate, the Democratic Party, and to our Nation, in an address that I titled ''The Role of the Majority Leader in the Senate,'' given at the end of my first year in the Senate. I pointed out that Senator Johnson was ''the cohesive, the centrifugal force by which the majority is held together.''

When he became Vice President of the United States, I again paid tribute to my former colleague and mentor, declaring that his ''political leadership in the Senate [was] a guide and an inspiration to all of us.''

Amidst tragedy, on November 22, 1963, Lyndon Johnson became President of these United States. His administration achieved many accomplishments, especially in the areas of civil rights and social policy.

I believe, however, in the observation I made at the time of Lyndon B. Johnson's death:

> The years Lyndon Johnson spent in the Senate might well have been the happiest and the most satisfying of his life.

Lyndon B. Johnson will long be remembered here 100, even 200, years and more after his birth, for his leadership, his sagacity, his wit, for the sheer enjoyment he derived from working in the Senate, and his obvious love for this body and the great Nation it serves.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MENENDEZ). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REED. Mr. President, this is an opportunity for me to speak about the supplemental appropriations bill, but I would be remiss if I did not recognize the extraordinary life and service of President Lyndon Baines Johnson.

I can remember graphically, as a high school student at La Salle Academy in Providence, RI, going down to, at that time recently named, Kennedy Plaza in Providence to see President Johnson in a motorcade on his way to Brown University to deliver a major policy address with, at that time, the senior Senator John O. Pastore. They were both celebrating tremendous legislative accomplishments in education, health care, and civil rights, none of which would have been wrought except by the vision and work of Lyndon Johnson.

We are commemorating an extraordinary President, an extraordinary gentleman, someone truly larger than life whose contribution and whose influence is with us today. In fact, many days on this Senate floor, I think our tact is to live up to his ideals and his accomplishments and to make them fresh again in both the heart and spirit of America. I hope on our best days we do that.

SUPPLEMENTAL APPROPRIATIONS

Mr. REED. Mr. President, I wish to focus my remaining remarks on the supplemental appropriations bill which is pending before the Senate. We passed a supplemental appropriations bill out of the Appropriations Committee, which I serve on, last week. This bill contains $168.9 billion for funding operations in Iraq and Afghanistan. That is the amount the President requested. But importantly, this bill also includes significant contributions to the domestic economy of this country, to the needs here at home, not just overseas.

It includes funds for LIHEAP. At a time when oil is topping $130 a barrel, the drain on low-income Americans and seniors particularly, simply to pay heating prices, and in the Southwest and South of our country, cooling prices this summer are extraordinary. It is a burden. It is a huge burden. We have incorporated some funds for that situation.

We also have moneys for unemployment insurance, not only necessary to sustain families in a time of economic crisis but also one of the most effective stimulus devices. The money from unemployment insurance goes quickly from the recipient to the local market, to all the needs of a family struggling in this economy to get by. It is a tremendous way to stimulate our economy. So it has both individual benefits and economic benefits for the country as a whole.

I must also point out that included in these domestic provisions is extraordinary legislation by Senator WEBB, my colleague from Virginia, the enhanced GI bill of rights. Senator WEBB has done an extraordinary job, and it is not surprising. He approaches this not only as a very astute legislator but as a combat marine veteran of Vietnam. He has borne the burden of battle. He understands now, in the famous words of President Lincoln, that it is our responsibility to take care of those who have borne the burden of battle.

This responsibility is, I think, one of the most paramount we face, and his legislation goes right to the concerns of so many returning veterans: How will I get back to education? How will I fund my education? How will I be similar to my predecessors, the generation of my father—when so many had the opportunity to go to college, and then not only did they contribute to their own family's well-being, they helped build an economic powerhouse we have seen in America since World War II.

This is a program, again, which I think is extraordinarily important. I commend Senator WEBB for his vision, for his persistence, and for his passion. I hope we include it in the final version of the supplemental appropriations bill.

As I mentioned before, we are putting funds in for LIHEAP. I offered an amendment to include $1 billion. It is so necessary. In places such as California, there are 1.7 million households behind in their utility bills. That is up 100,000 from last year, and last year was a difficult year for many. There are 650,000 households in Pennsylvania that are receiving shutoff warnings, a huge number of families who are facing the end of their utility service. In a very uncertain economy, it is difficult to reestablish that relationship going forward unless we help them.

We have seen a 162-percent increase in energy costs since 2000. It is extraordinary. There is no paycheck for working Americans that has gone up 162 percent, but their energy bills have. We have seen heating oil prices in the last year increase 35 percent. So this is something that is absolutely critical, just as unemployment insurance, just as so many aspects of this legislation.

There are also included provisions not requested by the President. There is some assistance for the global food crisis and for the terrible natural disasters in Myanmar and China.

We also include, as another aspect of the legislation, something that is absolutely, I believe, critical, and that is conditions on our policy with respect to Iraq, particularly. This Congress has, over my strenuous efforts otherwise, essentially given the President a blank check. He demands money, and he has been given money but without conditions. I think it is the responsibility of this Congress to impose reasonable conditions on the funding, to not only govern our operations but also to make it clear to the Iraqi Government that they are ultimately responsible for their own safety, their own future, their own stability, the future of the Iraqi nation and the Iraqi people. It is not something we can do for them. We have rendered extraordinary assistance to them, but the task is truly theirs, and they must seize that task.

These conditions, I think, are terribly important. One would, for example, ensure the readiness of our troops, who are being stretched to the limit, ensure they are ready when they are deployed. That is something I hope no one is arguing with.

Another provision directs the Government to negotiate cost sharing for fuel and troop training with the Iraqis. The Iraqi Government has accumulated upward of $10 billion or more because of the surging oil prices. Very little, if any, of those funds is being devoted to their own people or to the joint effort we have undertaken with them to stabilize the country. It is only fair that they should begin to pay their fair share, particularly since they are sitting on a significant amount of money resulting from high energy prices. That money should be devoted to stabilizing their country and helping their people, much more so than they are doing today.

Then there is another provision which is something Senator LEVIN and I have been stressing for many months now, and that is to begin a transition of the missions our military forces and diplomatic forces are performing in Iraq, particularly our military forces, instead of an open-ended mission, and we have seen this mission from the President's standpoint change dramatically.

As you will recall, the first mission was to find and destroy the weapons of mass destruction, a very difficult mission, since there were no weapons of mass destruction. Then there was the mission of creating a democratic oasis in the Persian Gulf, a very grandiose mission, more or less, and that mission, I think, has been discounted dramatically over the last several months by the President's own rhetoric. He has talked now about simply creating a country that will sustain itself and not threaten its neighbors.

We have to focus not on these globalized missions which are more

dogmatic and ideological, but on things the military should be doing for our protection in the context of redeploying forces out of Iraq. Those missions are, in my view, force protection—we have to ensure our forces are fully protected—counterterrorism, because we cannot surrender that mission anywhere in the world; we have to be able to seek out and destroy those terrorist cells that are plotting and planning against the United States and our allies; and third is to train the Iraqi security forces because we do have to provide a force that will stay behind, a force that will help stabilize that country.

The essence of the Levin-Reed amendment has been to move from the open-ended missions of today to these discrete missions and, in so doing, begin a deliberate, consistent disengagement of our forces and a reduction of our forces in Iraq. That is a policy that will, I think, work, and it is a policy that eventually, ultimately must be followed.

I think the reluctance of the administration to entertain any conditions whatsoever over the last several years has undermined, in the long run, our ability to influence the Government of Iraq and also to reassure the American public we are not into an open-ended, unlimited commitment, stretching years and decades and beyond, that our mission is discrete, that our mission in terms of military presence is coming down and will not reverse itself, and that we are doing all we can in that context to save lives in Iraq.

On 9/11, this country was struck by terrorists. The United States, this Senate, the Congress, the administration rallied together with unanimity and with purpose. We authorized and supported an attack against Afghanistan because that is where the perpetrators were lodged, that is where al-Qaida was headquartered. They were collaborating with the Taliban government. They were given safe haven there. The planning for so much of what went on, on that fateful day, originated from Afghanistan. That is where bin Laden, that is where the leadership of al-Qaida was. We struck there, and I must say in an extraordinarily successful operation—and credit and criticism must be given, and there is great credit in terms of the leadership of the administration, our military forces conducting a very sophisticated operation, an operation that used our advantages with precision weapons, used very effectively our special forces, and used collaborative efforts with forces on the ground in Afghanistan and also the collaboration and support, in many respects, of the international community. But rather than consolidating our gains after that successful operation and pursuing al-Qaida in Pakistan, where the leadership fled, the administration turned immediately, almost immediately, to Iraq. And not out of any, I think, strategic need, but out of a dogmatic political, ideological need.

They thought Iraq would be a relatively easy target. They were speaking in those days, informally at least, about a very short operation, and that almost immediately Iraq would blossom as a source of democratic inspiration and market economics in that region. We know the history has not been that cheerful. And that diversion to Iraq, I believe, was a deeply flawed strategy. It was an attack on a country that did not represent an immediate threat to the United States, a point I made on the floor of this Senate as I opposed the resolution of 2002 to conduct those operations.

Because we were pursuing not a strategic necessity but an ideological obsession, it was not a mission that was well advised or well planned for. There was more hope than planning involved, more ideology than practical commonsense application of force to a threatening situation in the world. One of the unfortunate ironies of this is that as we have been obsessed and committed in Iraq, al-Qaida has reconstituted itself as an incredible force once again. The whole purpose of our attack in Afghanistan, the whole thrust of our efforts immediately after 9/11, was to decisively and, we hoped, irrevocably destroy al-Qaida. Al-Qaida is back. While we have been engaged in this hugely expensive mission—expensive not only in terms of resources but in terms of the lives of our soldiers, marines, sailors, and airmen, and also the wear and tear on our military forces—al-Qaida has been quietly rebuilding.

The other thing that has happened unwittingly is that Iran has become a much more credible threat to stability in the region; has become even more influential and powerful. In some respects, this is a direct result of our engagement in Iraq.

Also in that time period, we stood by as the North Koreans overthrew the agreed framework, seized the plutonium that was in the reactors around Yongbyan and took it away. Now we are trying desperately to put together another agreement with the North Koreans, but after years in which they not only tested longer range missiles but also detonated a nuclear device. They crossed a threshold that had never been crossed before, they detonated a nuclear device, and our reaction was, I think necessarily perhaps because of our engagement in Iraq, one of seeking, perhaps too late now, a diplomatic approach. But if you go back to 2000, we had a framework in place that looks very much like the framework they are working out today. We had the plutonium secured, North Korea had not tested a nuclear device, and there were hopes that with further active negotiations we could make additional progress. That, I think, too, is a cost of our engagement in Iraq.

It has also greatly diminished our standing in the international community. This is not just a nice thing to have. An essential attribute of national power is the respect, the esteem, the cooperation, the good wishes, the goodwill, and the political and diplomatic support of other nations, because in this world most of the great challenges cannot be met alone. That was contrary, I think, to the unilateralism that abounded in this administration; that if in fact we are going to do something significant, longstanding and sustainable, it requires a multinational approach and the foundation of that approach is the goodwill and good wishes of the people of the world. This administration has squandered much of that.

It also is contributing, and we can debate how much, to this faltering economy. Oil today is $130 a barrel. Some of that is attributable to the instability in the gulf region; the fact that Iraq has not been producing the same volume of oil consistently over the last several years that it did before the operation. This geopolitical uncertainty has contributed significantly to the price of oil and it is also, I think, contributing to the overall economic issue we are addressing here today, a very critical issue in the United States.

Another aspect of this policy is that we have stretched our military, our land forces, to the brink, if you will. They have seen significant deployments consistently time and time again and the toll is adding up on our military forces. We are now left, and the next administration is left, and this Congress and the American people, with dealing with the consequences of this flawed strategy. I believe we have to begin to recognize and realistically assess the political and military situation in Iraq. We have to begin to develop and implement achievable missions for our U.S. forces there and their civilian counterparts, and then we must turn our attention to restoring our economic prosperity and growth, and rebuilding our military, which has been significantly stretched and stressed by this operation.

We have to also reorganize our civilian resources to deal with the ongoing threats in the world. That is something this administration has yet to do effectively—to develop a complementary power of our State Department officials, our agriculture officials, and all those people who must be part of this approach to a kind of warfare that is, in many cases, less about firepower and more about reaching people with economic progress and educational reform, and water systems. Those are more potent weapons sometimes than any precision-guided missile we might deploy.

I think our first step in all of this is passing this supplemental appropriations bill, with conditioned funding for our forces, with reasonable conditions about the mission and the responsibilities the Iraqi Government should have, and also once again beginning to invest in the American people, investing in keeping them warm in the winter through LIHEAP and keeping them cool through LIHEAP in the summertime; giving them a chance, if they lose

their job, to at least keep looking for some support with extended unemployment benefits, and so many other things we have included in this. I think that is critical.

Now, I mentioned before I have felt since 2002 that the strategy of the administration toward Iraq was flawed significantly. It was, I think, a product of a dogma. No one can I think dispute the power of democracy, and it is a power that is not exclusive to our culture. It is a human demand, the ability to live with a sense of personal integrity and personal freedom. But I think the administration didn't realize you need the institutional capacity to have a democratic government, and this capacity is not automatic nor is it built up in a matter of weeks or months. We have seen in Iraq, and in so many other places, that democratic elections do not necessarily lead to democratic political forces controlling a country; that you need to build carefully over, I would suggest, many years the institutional capacity so that elections lead to true democracy, not simply legitimizing those people who are antidemocratic.

I think this has been one of the tremendous flaws of the President's concept of the mission. As a result, we started off with, obviously, I think, an ill-conceived mission of eliminating weapons of mass destruction in a country in which it turned out there were no weapons of mass destruction. People forget that the United Nations put inspectors on the ground, and that it was this administration who hastened their departure, rather than using these inspectors over time to establish whether there were weapons or whether there were no weapons, or at least to do it in a way in which subsequent military action would be legitimized by either noncooperation of the Iraqis or the fact that the questions couldn't be established or answered. But they quickly rushed to a military option, and I think that option has had unfortunate consequences for the United States.

One of the principal consequences, and I mentioned this in my introductory comments, is the fact that al-Qaida, the existential threat to this country, as evidenced by 9/11, has in fact reconstituted itself, not only in the border regions of Afghanistan, to a degree, but much more particularly in Pakistan, in the federally administered tribal areas. These are poor tribal areas ill governed by the Government of Pakistan. In fact, there are provisions in their organic laws which limit their real access to these areas. It has a population of 3 million people, and in that 3 million people al-Qaida, bin Laden, and al Zawahiri have found sanctuary and a safe haven, that continues today.

In a sobering report released last month by the Government Accountability Office, they stated:

The United States has not met its national security goals to destroy terrorist threats and close the safe havens in Pakistan's FATA.

And this is 7 years after 9/11.

Since 2002, the U.S. has provided Pakistan with $10.5 billion in military, economic, and developmental aid. Half of it has gone to the military. But despite these actions—despite this extraordinary amount of money—GAO found broad agreement, as documented in the National Intelligence Estimate, State and embassy documents, as well as defense officials in Pakistan, that al-Qaida had regenerated its ability to attack the United States and had succeeded in establishing a safe haven in Pakistan's FATA.

Now, I thought the point of our national strategy after 9/11 was to destroy al-Qaida and to eliminate any possibility of a safe haven anywhere in the world. And according to these documents, our embassy, our Defense officials, our national intelligence agency, al-Qaida has reestablished itself and has found safe haven. I would suggest that is, I think, a stunning indictment of the strategy of this administration over the last several years; again, I think an unfortunate consequence of the obsession that they have chosen to pursue in Iraq.

An even more disturbing finding of GAO is:

No comprehensive plan comprised of diplomatic, economic, intelligence and military efforts for meeting U.S. National security goals in the FATA has been developed.

The one thing that seems to be consistent about the administration is they do not do much planning. There was no plan for Iraq and, according to the GAO, there is no plan for Pakistan and the federally administered tribal areas there.

A key part of the plan that must be developed in Pakistan is economic development. Because what I have witnessed, in the several times I have been to Pakistan, is that this is not strictly, as so many of these conflicts are, a military action. It requires providing economic support, it requires giving people a sense that their fate should be linked to their legitimate government, and that government should be pursuing goals which are not strictly sectarian. That government should be a government relatively open and democratic, and that the appeal of the extremist is weakened if people have that sense of confidence in their government, confidence in their future. That is not a military issue essentially; that is an issue of economic development, of supporting legitimate institutions of the state, be it Pakistan or elsewhere.

That has been recognized by, I think, many experts. But the senior U.S. Embassy officials in Pakistan admit there has been overreliance on the Pakistani military to achieve U.S. national security objectives; that we have not developed a complementary approach of a comprehensive strategy which includes economic, political, and social development also.

As a result, in March, the Director of the Central Intelligence Agency, Michael Hayden, described al-Qaida's safe haven as a ''clear and present danger to the United States.'' The chairman of the Joint Chiefs of Staff, ADM Michael Mullen, has stated:

If I were going to pick the next attack to hit the United States, it would come out of the FATA.

Now, let us be clear. It is not out of Iraq, it is not out of Mosul, or Basra, or Baghdad, it is out of the FATA. That is the view of the chief uniformed officer of the United States. The 2008 Director of National Intelligence annual threat assessment, which represents the combined judgments of 16 U.S. intelligence agencies, has concluded that:

The resurgence of the FATA now poses a preeminent threat to the United States national security.

The problems of the FATA are being highlighted by deteriorating conditions in Afghanistan.

What we have seen from the initial success in Afghanistan has been a steady, at times rapid, deterioration of conditions there. It is evident that our efforts in Afghanistan are being undermined by what is happening in Pakistan. Not only have we taken our eye off the major threat, al-Qaida, and allowed it to reconstitute, we are in danger of seeing the progress we have made in Afghanistan slip away.

In 2003, the Taliban, the former government, and their followers, who have continued to try to assert their will in Afghanistan, were operating squad size units. Now we have reports they are operating in battalion size units of almost 400 people, showing the climate has changed radically. Suicide bombers have attacked at rates that were not observed in Afghanistan until relatively recently, but as you have no doubt surmised, it is something that has been imported through terrorist networks into Afghanistan.

Afghanistan's index of corruption is among the highest in the world. You have a state that has marginal capacity to govern well and wisely. Again, this is after many years of our involvement, our engagement. Also, there was a sense that, initially at least, before Iraq, Afghanistan was the major test of our ability, not only to defeat al-Qaida but also to create or help create, in collaboration with the Afghanis, a stable government. That test is in danger of failing miserably.

Afghanistan now provides 93 percent of the world's opium. One of the great additional ironies, now it is one of the major suppliers of drugs, and it is doing so while we maintain our military and diplomatic presence there.

We have a NATO contingent there, but frankly NATO has not been able to fulfill all of its obligations, putting more pressure on our military alliance forces. I think we have to urge NATO to be more helpful. Hopefully, they will. But, as a result, we have sent additional forces in there, about 4,300 troops. We are prepared to send more. This is adding additional stress and strain on our military forces.

As I look, we are seeing a situation in which the principal objective in response to 9/11, the principal place where our enemies were, has now been relegated to the third page of the

paper, as the headlines are dominated by Iraq. I think we have a situation where we have literally taken our eye off the major existential threat.

We have another consequence of our operations in Iraq, and that is we have empowered Iran. Iran is heavily involved in Iraq. Its objectives are questionable. They have an interest in maintaining strategic depth by keeping the regime in Baghdad as one that is friendly to them, not hostile as the Baathists were. Also, they have many colleagues in the Iraqi Shia movement. Some of these individuals actually fought with the Iranians against the Iraqis in the 1980s in the Iraq-Iran war.

Iraq is materially assisting all the major Shia parties. They have not limited themselves to one party or one particular group. As we all know, in March of this year, President Ahmadinejad visited Iraq for 2 days. The present government in Iraq, Prime Minister Maliki and all, rolled out the red carpet—literally. He arrived in a motorcade and ran around Baghdad in a sport coat. When any of our colleagues go or when any of our major administrative officials go, it is surreptitiously, it is guarded, and it is in a flak jacket. So there is something going on there with respect to this Government of Iraq and Ahmadinejad and his warm welcome. I think it graphically shows the influence they have in that country.

We are finding a steady supply of IEDs which our military authorities trace to Iran, or at least their technology. Iran is heavily engaged in funding social organizations and building a model they have used elsewhere—Hezbolla in Lebanon, Hamas in the Palestinian Authority—where they are able to not only help them organize the military force but help them carry out social functions, helping people, helping widows, providing relief. That is very powerful when you have a dysfunctional government and that is the case in Iraq.

We also know, on another track, the Iranians are attempting to develop a nuclear fuel cycle. The IAEA, the International Atomic Energy Administration, has been spending decades trying to track the developmental work of the Iranian Government. In 2006 there were documents found of possible nuclear dimension to their program in Iran. This is of great consequence to us. There is a legitimate concern that if the Iranian Government were able to develop a nuclear fuel cycle and could produce nuclear material, they would not be able to resist the temptation to develop a nuclear device. That would be of significant consequence in the region and in the world.

All that is happening in the context of our energies and our attention being overwhelmingly devoted to Iraq. There is a connection between the growing geopolitical clout of Iran in the region and our situation within Iraq. In the long run, I think we might look back and discover that one of the real costs of Iraq was the emergence of a much more difficult, much more threatening, much more powerful Iran.

As I mentioned earlier, while we have been focused so strenuously on Iraq, North Korea has broken out of the Agreed Framework. They have expelled international inspectors. They have withdrawn from the Nuclear Non-Proliferation Treaty. They restarted their nuclear installation at Yongbyon. It is estimated that up to 50 kilograms of separated plutonium, enough for at least six nuclear weapons, have been taken by the North Koreans and dispersed somewhere in the country.

On October 9, 2006, the North Koreans conducted a nuclear test—crossed a red line they had never done before, detonated a nuclear device. Fortunately, over the last several months the administration has reinstituted serious negotiations with the North Koreans. Under the able leadership of Ambassador Christopher Hill, they have begun to identify and work with the North Koreans to identify where the plutonium might be, where there are other nuclear materials, nuclear technologies, and they are beginning to walk back where we were, ironically, in the year 2000 and provide some sense of a diplomatic solution to a very pressing problem.

But I would argue this would be a very different situation if we were not so decisively involved and engaged in Iraq.

I mentioned also, in the course of these last several years, our involvement in Iraq has hurt us in terms of the world's opinion. That is not just a nice thing to have, it is an essential thing to have. In late 2001, 52 percent of Turkish citizens and 75 percent of our British allies viewed the United States favorably. Now that favorable view has dropped to 9 percent in Turkey and 51 percent in Great Britain—one of our longest and most significant allies, Great Britain, and Turkey, one of the most significant members of NATO and also a Muslim country. We have seen our public approval drop precipitously.

In a poll conducted by the BBC just last month, 47 percent of citizens in 25 countries said the United States is playing a mainly negative role in the world. That type of public opinion will not inspire political leaders around the world to help us very much. In fact, to do so they have to consciously operate against their own public opinion. That is a difficult challenge anywhere.

Last month, Zogby and the University of Maryland surveyed citizens of Saudi Arabia, Egypt, Morocco, Jordan, Lebanon, and the UAE and found 83 percent had an unfavorable view of the United States. These countries are moderate Arab countries, so to speak, whose support in this effort in Afghanistan and Iraq and elsewhere is necessary. Their unfavorable view of the United States is alarming.

One of the keys we know of prevailing in this struggle is to challenge and rally the forces of moderation and democracy through the Arab world, of getting the people of the Arab world to understand that we are trying to assist them. That is not working, unfortunately.

Then, as I mentioned, we have the economic consequences of the war. In December 31, 2002, the New York Times reported:

> The administration's top budget official estimated today that the cost of a war with Iraq could be in the range of $50 billion to $60 billion, a figure that is well below earlier estimates from White House officials—
>
> Then OMB Director—
>
> Mitch Daniels would not provide specific costs for either a long or a short military campaign against Saddam Hussein. But he said the administration was budgeting for both, and earlier estimates of $100 billion to $200 billion in Iraq war costs by Lawrence B. Lindsey, Mr. Bush's former chief economic adviser, were too high.

To date we have approved $526 billion for operations in Iraq—far in excess of any of the estimates of the administration. That spending is affecting what we can do to help our own citizens, what we can do to play a positive role in the world—not in a military sense but in a diplomatic and international sense, helping in so many different areas.

Now, to gain some perspective on the $500-plus billion that we have committed to Iraq, what we could have used it for, this amount accrued plus the amount in the supplemental we are considering would have been sufficient to provide health insurance coverage to all the 45 million uninsured Americans for the timeframe 2003 to 2008. That is taken from the Joint Economic Committee. That would be a significant benefit to the people of America, but that is a benefit foregone. I have pointed out all this money to date has been deficit spending. This is not something we have paid for. One of the complaints we often hear around here is that it is irresponsible to spend money without somehow offsetting it. That line of thought does not persist with the administration when it comes to funding this war in Iraq.

We have also piled up huge contingency costs as we go forward. The direct costs are significant, but the indirect costs and the future costs are also important to note. We have to repair and replace the military equipment that is being used. We have spent money to increase recruitment and retention, and we have to do that for many years. We have had economic disruptions caused by deployment of the National Guard and Reserve troops who have to leave their jobs to go into the military.

According to a November 2007 report compiled by the Joint Economic Committee, the impact of the war on the U.S. economy to date is $1.3 trillion or $16,500 for every American family of four. So the costs, both direct and indirect, have been staggering.

Those costs continue. One of the critical costs we are going to face is the cost going forward of helping our veterans. I was very pleased last year to

act as the chairman of the Appropriations Subcommittee on Military Construction and Veterans' Affairs while Senator JOHNSON recovered, and now I am equally pleased to know that he is chairing that subcommittee and doing a remarkable job. But we were able to pass a significant increase in spending for our veterans.

But the real challenge for us is will we do that 5 years from now? 7 years from now? 8 years from now? 20 years from now, when these veterans still need the help but time has passed? I hope we will. That would be a test—and if I am here, I hope I will be able to remind people that the test is each year not 1 year or 2 years.

As Professor Stiglitz, a Nobel laureate, pointed out, this cost, when you aggregate it all, is in the trillions of dollars going forward, looking at the consequential costs today, looking at the direct spending.

That is taking its toll on the economy of this country.

Another place where the toll is being taken is on our Army and Marine Corps, particularly; our military in general, but particularly our Army and Marine Corps.

I recall, as so many of us do, years ago, August 3, 2000, to be precise when Governor Bush stated: Our military is low on parts, pay and morale. If called upon by the Commander in Chief today, two entire divisions of the Army will have to report ''Not ready for duty, sir.''.

Well, Army readiness is worse today than it was in 2000, and if that is the metric to measure the success of the Commander in Chief, I would argue that that metric has failed. If we look at readiness today, while we have a situation which our brigade combat teams that are deployed or are preparing to deploy are considered ready, the Army has only one ready brigade combat team in reserve for any other contingency in the world. Strategically our flexibility has been constrained almost to the vanishing point. That is a consequence of Iraq.

On February 26, the Army Chief of Staff, General Casey, said before the Senate Armed Services Committee:

> The cumulative effects of the last 6 plus years at war have left our Army out of balance, consumed by the current fight and unable to do the things we know we need to do properly, sustain our all-volunteer force, and restore our flexibility for an uncertain future.

He added:

> We are consuming readiness as fast as we build it.

I would ask, rhetorically, I wonder if General Casey had to report how many divisions are not ready today, it would probably be more than two, if you aggregated all of the brigades, that for reasons of training, equipping, and personnel are not at 100 percent.

On April 8, General Cody, the Vice Chief of Staff of the Army, testified before the Senate Armed Services Committee on readiness:

> I have been doing this for 6 years. As you know I was at G–3 of the Army and vice chief now for almost 4 years. And I have never seen our lack of strategic depth where it is today.

We have 162,400 troops serving in Operation Iraqi Freedom. There are 33,000 troops in Afghanistan serving in the ISAF and Operation Enduring Freedom. Since 2002, 1.6 million troops have served in either Iraq or Afghanistan, and many of them are multiple tours. Of those on active duty, 336,000 have 1 tour; 108,000 have had 2 tours; and 30,000 have had 3 or more tours.

This is a pace that cannot be sustained. It is a pace that is taking a tremendous toll on our troops and their families, and it is a toll again that cannot be indefinitely sustained.

For our reservists, we have had many of those who have had at least 1 tour, 97,000; 9,000 have had 2 or more tours; and the notices that went out this week to mobilize and alert roughly 42,000 troops include significant Reserve and National Guard deployments, brigade combat teams in the National Guard that will go again. I suspect for many of them it will be at least their second tour and perhaps for some their third. So we have had tremendous turbulence in terms of deployment of our land forces. Our military personnel are dedicated. They are doing a superb job. But they cannot keep up this pace. That is one aspect of it, personnel.

The other aspect is equipment. We have fought tirelessly here in this Congress to give our forces the equipment they need. I can recall returning in 2003 from Iraq, seeing my National Guard military police people in Baghdad being told that they did not have armored humvees and they needed them because they were in the middle of a fight in Fallujah.

I contacted the military authorities. I came to the floor of the Senate, proposed we increase the funding for armored humvees, and that was an initiative that started with my colleagues here in the Senate and the House, reluctantly agreed to, I think, from my perspective, by the administration. It took us many months to begin to get sufficient armored vehicles into Iraq.

Similarly we are now on a second and third generation with MRAP, the mine resistant vehicles. That too was a result of many efforts here in the Congress to get that equipment out to our troops.

I believe, I hope, they have everything they need, the latest technology. That is something that is absolutely essential. But all of this equipment is being used and overused. Roughly 30 percent of the Marine Corps' ground equipment and half of the Army's ground equipment is in Iraq and Afghanistan, again leaving very little back here in the United States, relatively speaking, for the training and the contingency operations that might take place here in a natural disaster or some other major contingency.

It is a harsh, hard environment. The operational tempo is wearing out this equipment. I recall being out in Anbar Province getting ready to go on a Marine helicopter. They were briefing us routinely, claiming that the engines on these helicopters were operating way beyond where they would normally operate. They assured me it was safe to get on the helicopter. But one wondered, as you got on: Would this rate of operational use, if the stress and the strains eventually, would it result in malfunctions for our troops, our forces, our marines in the field.

So we expect, the Army expects, to need $12 to $13 billion per year to reset the forces. The Marine Corps estimates it will need $15.6 billion for reset over the next several years when the operations begin to wind down. The Army National Guard has little more than half of its required equipment and they will need $22 billion for the next 5 years to build the equipment up to 75 percent of authorized levels. So we have a tremendous impact on our Army because of our operations in Afghanistan and Iraq, and principally Iraq.

The other aspect of readiness is training. Because the time back home of Army forces has been reduced effectively to 12 months, they cannot do the same type and the same level of training they had been doing previous to Iraq. In fact, if you talked to most troops, they come back from Iraq, and then they start training, not for the range of missions our military force has to be prepared for but for their next deployment into either Iraq or Afghanistan. In that time they have to squeeze in time with their family, they have to squeeze in the administrative details that are part and parcel of being in home base.

Their training is being pressured. Some of the equipment they need to train is not there. It is already overseas and it remains over there. There is this increasing concern that the only mission they are training for is counterinsurgency and urban combat, because Iraq dominates so much of the time, attention, and resources in the Army.

Another aspect of readiness is recruiting, and this high operational tempo has led the Army in some cases to miss their recruiting goals. Recently, they have been achieving those goals, but it is not without lowering standards, it is not without huge incentives or significant incentives. It is something that over the course of the next several months and years will show increasing strain and stress on the military force, their ability to recruit, their ability to retain.

In 2005 the Army missed its active-duty recruiting targets by 8 percent. That was the first time they had ever missed recruiting targets since 1999, and by a margin not seen since 1979, in the early years of the volunteer Army. Since 2006 the Army has met its yearly recruiting goals, but only by taking some extraordinary measures. In 2007, more than 20 percent of the new Army recruits needed waivers; 57 percent for

conduct, 36 percent for medical reasons, and 7 percent for substance abuse. There was a time prior to Iraq when the Army prided itself on approving very few waivers and was trying to drive the standards up, not lower the standards. Thus far in fiscal year 2008, only 82 percent of the recruits have high school diplomas. The longstanding goal of the Army is at least 90 percent. The maximum age for new recruits has been raised from 35 to 42. Now, all of these soldiers are doing their job. But we have to ensure, as we were doing before Iraq, that to the greatest extent possible we increase the quality of our forces. All of these reductions in standards will come with some cost as the Army continues to go forward.

There is another similar picture with respect to retention. The number of officers the Army needs grew by 8,000 as we increased the size of the Army, with 58 percent of this group in captains and majors. As the Army grows, they have to retain more and more of these captains and majors. While the overall officer loss rate for fiscal year 2007 equaled the 10-year average of 8.5 percent, this loss rate must drop to 5 percent in order to maintain this increased size of the Army at these critical positions of captains and majors.

What is happening is that the tempo of operations, the limited time with family, the cycling in and out of Iraq and Afghanistan, is causing these very talented officers, captains, majors, senior noncommissioned officers, to decide that they, for personal reasons, have to leave the service. And this is depriving the military, not only today, but for many years, of the talent and the skill they need, which is a great factor in our military forces. We have got sophisticated equipment, but if we do not have the high quality officers, senior noncommissioned officers, in all of our services, then we will not be as effective as we must be. The cost over the long term is a loss of many talented young men and women who otherwise would be committed to a career in the military.

We are taking efforts to retain these people with bonuses. But more and more what I am hearing is that the financial incentives, the other incentives, are not compensating for the time away from home, for the treadmill in and out of Iraq and Afghanistan, and the toll will mount despite these incentives.

There is another aspect too of what is happening, and that is something that has become the signature injury of these operations in Iraq and Afghanistan, that is, the increasing number of mental health issues arising within our forces. Post-deployment health reassessments which are administered to servicemembers 90 to 120 days after returning from deployment indicate that 38 percent of soldiers and 31 percent of marines report psychological symptoms. The figure in the National Guard is 49 percent.

Of the 1.6 million military personnel who have served in Iraq or Afghanistan, almost 800,000 who have left active service are now eligible for VA benefits, VA care. Of these almost 800,000 veterans, roughly 300,000, or 37 percent, have obtained VA health care since 2001. Of this roughly 300,000, 40 percent, have been diagnosed with a mental disorder.

That is a staggering total, a consequence of the stress, the strain, the types of combat situations, the types of weapons deployed against them. But that is a staggering figure. If that number is projected throughout all of those who have served, that is a huge number of active personnel and veterans who are suffering some type of mental consequence of their service in Iraq.

In January, Dr. William Winkenwerder, the Assistant Secretary of Defense for Health Affairs, announced the Army's suicide rate in Iraq has been about a third higher than past rates for troops during peacetime, another very significant and very sobering statistic.

Anonymous postdeployment surveys show that 20 percent of married soldiers plan to separate or divorce in 2006, another consequence of this operational tempo.

The incidence of alcohol-related instances has substantially increased over the last several years. The VA has identified that one in four homeless persons are veterans of wars in Iraq and Afghanistan. This is again another sobering statistic and a result of the operations that are being conducted and the requirements to deal effectively and principally with those veterans who are returning and those active-duty personnel who are returning.

We have encountered huge costs because of the failed strategy and incompetent execution of this operation in Iraq by the administration. We have seen over the last several months a surge that was promoted as giving the Iraqi Government the ability to reconcile itself, but that reconciliation has not yet been achieved.

We have seen, as I pointed out, that in Iraq today, probably the most influential country, certainly challenging us, is not a democratic country, but Iran, not a country that is committed as we are to the same democratic principles.

The Maliki government is a Shia government. It is operated in collaboration with the Kurds who have their own aspirations for autonomy.

The odd-group-out still remains the Sunni population. We have seen over the last several weeks operations in the south in Basra that started off inauspiciously and ended quickly with the help of Iran. We have seen operations now directed against the Sadr's militiamen in Sadr City, the JAM, the Mahdi army. This is rapidly becoming a fight not against international terrorism but a fight for power within Iraq among various factions and sectarian groups. We are being thrown into it day by day.

It also raises serious questions about, frankly, what we have done in the last several years to prepare for this day, to prepare not only the military forces in Iraq but the political institutions of Iraq to deal effectively and peacefully, we hope, with their citizens and to help develop a stable country that can stand on its own.

We are in a situation also where we have—and I think this was a calculated risk, one that was taken and is working, but the question is, How long it will work?—recognized Sunni militias. They are called the Sons of Iraq or Concerned Local Citizens. These groups are standing by at the moment watching as the Maliki government tries to assert its authority over JAM and some of the Shia extremist groups. But their future direction is uncertain. We are paying them. We have lobbied heavily that the Government of Iraq assume this responsibility. But there is a real question whether the Maliki government will ever truly recognize the 91,000 Sunni militiamen who are organized in the country, and there is the real potential that without this integration, this is another source of not only friction but of significant conflict in Iraq.

There are numerous scenarios that could play out. One scenario is, if Maliki is successful to a degree in disrupting the Shia militias and the JAM, he might decide it is now time to take care of the CLCs, the Sons of Iraq. This could prompt significant fighting. The other possibility is that the Sunni militias, the Sons of Iraq, the CLC, decide the moment is right for them to reassert themselves as a much more powerful force in the political life of Iraq. None of this is certain. But with each passing day, we are further away from weapons of mass destruction and international terrorism and al-Qaida. We are closer and closer to a struggle between contending Iraqi forces for the power to run their country. That is a struggle they must resolve. We cannot. It is a struggle that indicates, again, that our course must be to change our policy, to assist legitimate forces to train to go after whatever remnants of terrorism exist in the country and any place else in the world, and to at all times protect our forces.

Embedded in the supplemental is that policy decision which I hope we make positively. If we can begin our redeployment, successfully and without deviation, from Iraq, then we can begin to focus on what to me are much more critical and central issues—al-Qaida elements in Pakistan, the stability of the Government of Pakistan, renewed support for the Government in Afghanistan, and the successful effort to not only defeat the remnants of the Taliban but to do what we have not been able to yet, which is to create political institutions that will outlast us, that will be committed to a fair view of democracy and a fair view of the treatment of their own people. The economic infrastructure to support such a

government, not through opium but through legitimate commercial transaction, that, too, is a difficult task. And then, too, I think we can focus and must focus our attention on Iran, dealing with their nuclear aspirations and also recognizing that ultimately our success in the region of the Persian Gulf depends upon diplomatic efforts involving all countries in a positive way.

This is a tall order. It is a consequence of a misinformed strategy and failed implementation. I hope we can begin with this supplemental to change course, to move forward. I urge my colleagues to consider this supplemental, consider the fact that we have to change direction in Iraq and redirect resources here in the United States. I hope in that spirit we can pass this supplemental and move forward.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SALAZAR. Mr. President, I ask unanimous consent to speak as in morning business for up to 20 minutes.

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

The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, I rise today with the hope that this Chamber will soon find consensus in our efforts to find a new course and a new direction in Iraq.

I am more convinced than ever that we must change our mission in Iraq from one of combat to one of support. We must place the responsibility for Iraq's future and for the security of its citizens in the hands of the Government of the Iraqi people. Until we change our mission and we take our military out of their streets, Iraqi politicians will not take the necessary, courageous, and final steps toward a political reconciliation that can achieve a lasting peace for Iraq and for the region.

Our military is performing admirably in difficult circumstances. They have been tasked with calming streets that are wrought with sectarian conflict, with unraveling thousand-year-old webs of Sunni, Kurd, and Shia rivalries, with understanding the mixture of motives behind car bombings, suicide bombings, roadside bombings, and mass executions. They have been told that if they do this and slow the downward spiral of civil war, the Shiite-dominated Government will press for national reconciliation and a more stable, secure future for Iraq.

Our troops have done their job. The Iraqi Government has not done its part. The Maliki government in Iraq has failed to capitalize on the opportunities for success our soldiers have provided, and the administration has failed to implement a political or a diplomatic strategy that is worthy of their sacrifice on the battlefield.

''There is no military solution . . . to the insurgency [in] Iraq.'' That is a quote from General Petraeus. It is a quote General Petraeus made to the world and to Members of this body many months ago. He was right then, and he is right today.

I believe the overwhelming majority of Senators have the same goals with respect to our future policy in Iraq. In my view, we share four key principles and ambitions.

First and foremost, every Senator in this Chamber wants a stable Iraq that can protect its citizens without dependence on American combat troops. Regardless of one's position on the merits or demerits of the invasion, we must now help Iraq stand as a sovereign nation. We must root out the terror cells that have set up shop since the invasion. And we must guard against a failed state. We must also find a way to help the 2 million Iraqis who fled across the border to Jordan, to Syria, and to Iran, as well as the nearly 2 million internally displaced persons who have fled the violence of their neighborhoods. It is the largest refugee crisis in the world today.

Second, we generally agree that our military mission in Iraq must transition at some point from one of combat to one of support. We must have the ultimate goal of bringing our troops home. We may disagree about the number or the timing of troop drawdowns, but we all know we cannot sustain 15 to 20 brigade combat teams in Iraq indefinitely. It will take courage and conviction to shift our mission and to bring our troops home, but if Iraq is truly to stand on its own, we must take the decisive action so we can begin that transition.

The third point on which I believe we can, by and large, agree is that this war has been poorly managed. The administration made a series of disastrous mistakes and gross miscalculations after the invasion. Failing to plan for a postwar Iraq, disbanding the Iraqi Army, purging Baathist technocrats from the Government, staffing the Coalition Provisional Authority with neophytes, sending our troops into harm's way without body armor or armored vehicles—these blunders have cost America dearly. They have eroded this administration's credibility, and they have cost us in lives and treasure.

Fourth, I believe there is a widely shared view in this Chamber that the United States should focus its military and diplomatic efforts on the most pressing threats to national security. Senators on both sides of the aisle agree that our top national security priorities should be to capture the men who were behind the attacks of September 11, to break up the terrorist training camps in Afghanistan and in Pakistan, and to confront the nuclear threats that we see, especially from Iran.

Sustaining 140,000 troops in Iraq limits our ability to prosecute the war on terror where terrorist training camps are actually located. Our top intelligence analysts have concluded that al-Qaida has regrouped—has regrouped stronger than ever—on the Pakistan-Afghanistan border. While it is true that al-Qaida in Iraq is a franchise, al-Qaida's main headquarters are elsewhere and not in Iraq.

Furthermore, prolonged commitments in Iraq limit our strategic flexibility should we need to respond to threats elsewhere around the world. We must evaluate whether putting all of our eggs in one basket in Iraq is the best strategy to protect America against threats and future attacks.

On these four points, I believe we should be able to find consensus in this Chamber. Our goal of stability in Iraq, our desire to start bringing our troops home, our shared frustration with the management of this war, and our concern that escalation in Iraq is weakening our defenses against terrorist threats and nuclear proliferation—these four points of agreement lead to the conclusion that we must find a new way forward in Iraq.

The wise heads of the Iraq Study Group laid the groundwork many months ago for a comprehensive strategy on how we would move forward in Iraq. We commissioned out of this Congress our finest and most experienced foreign policy experts, led by former Secretary of State James Baker and former Congressman Lee Hamilton, to provide us an objective and bipartisan set of recommendations on how we should proceed forward in this intractable war. I have reviewed this report multiple times, the report of the Iraq Study Group. That report was released at the end of 2006. It is a small book, but it contains great wisdom of our top diplomats, military commanders, and statesmen from around our country and, indeed, around the world.

The report of the Iraq Study Group laid out a political, diplomatic, and military strategy for how we create the conditions to end this war. Its core military recommendation is simple: It is time to transition our troops from a mission of combat to a mission of training, equipping, advising, and support of the Iraq military. Iraq must take responsibility for its own security, and it must be forced to take the political steps necessary toward that reconciliation.

Unlike the President's policy, the Iraq Study Group's prescriptions couple a military strategy with a robust and effective diplomatic and political strategy. The group recommended making our economic and military support contingent upon the Iraq Government devising and achieving specific benchmarks. While the Iraqis have made some progress in achieving these benchmarks, much remains to be done, and most of these benchmarks have not been met.

Finally, the report makes it very clear we need a diplomatic offensive to help change the equation in the Middle East. Under this diplomatic push, we would reach out to potential partners in the region, engaging those partners in the region as we strive to have a stake in creating long-lasting peace and stability in Iraq.

I wish to spend a few minutes now speaking about the Iraq war provisions in the supplemental which is later on in the day formally before the Senate. The bill before us contains many of the propositions that would change our Iraq policy in ways that are consistent with the Iraq Study Group's core recommendations. First and foremost, the bill expresses the sense of the Senate that our troops' mission should change from combat operations to counterterrorism, training and supporting Iraqi forces, and force protection. It would set a reasonable goal—not a deadline, a reasonable goal—of June 2009 to complete this transition. This goal is some 15 months past the date of March of 2008, which the Iraq Study Group originally proposed as its target date for the completion of this transition.

This bill would require the Iraq Government to stand up to its own responsibilities in important ways. It would be required to match any funds we spend for training of Iraqi security forces or for reconstruction. This legislation would ensure that the U.S. military pays the same price at the pump as Iraqi civilians are paying today, by requiring the Iraq Government to provide the same kind of support for the fuel costs we are using to protect Iraq today. We are spending $12 billion of America's taxpayer dollars each month in Iraq. We are spending $12 billion of American taxpayer dollars each month in Iraq. After more than 5 years of this war, in my view, it is time for the Iraq Government to share this financial burden.

We also need to recognize that this administration's policies have stretched our military to the breaking point. Our troops are away from their families too long, they do not get enough time to train, and readiness is suffering. Under this legislation, the President would have to certify that troops are fully trained and equipped before they are deployed to Iraq. It would place a time limit on combat deployments and ensure that our troops have sufficient dwell time between tours.

Finally, the bill would ban permanent U.S. bases on Iraqi soil and require that any mutual defense agreements with Iraq must be approved by this Congress and by this Senate.

It is not enough to simply endorse a set of military tactics and hope for the best, which is what the President of the United States has done. The solution in Iraq, our military commanders tell us, is one which is not a military solution but one which combines all those elements that were set forth in the Iraq Study Group.

Henry Kissinger once said America needs to rid itself of ''the illusion that there are military answers to our security, and that policy ends where strategy begins.''

We would be wise to heed Kissinger's advice in this age of turmoil. There are no easy answers in Iraq, no easy exits, no certainty of success. To stay on the President's path of more of the same is simply to embrace a policy that is not working—the same dogmatic leadership that led us into war, the same dogmatic leadership that failed to make a postinvasion plan, the same dogmatic leadership that chases the hope of a mission accomplished without regard to learning the lessons of the failures of the past.

To charge a new path—to build a political, diplomatic, and military strategy in Iraq—is to embrace the role of a statesman. For it is a statesman, Kissinger used to say, who takes responsibility for all the favorable results if everything goes as planned but also for all the undesirable results if they do not.

To serve as statesmen is our role. This is our role as Senators. It is up to the wise heads of this body to take the long view in Iraq, to be realistic about our options, and to consider all our national security interests—from terrorism to nuclear threats—when pursuing our goals of stability and peace in the Middle East.

Thank you. I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SALAZAR. Mr. President, I ask unanimous consent to speak as in morning business for up to 5 minutes.

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

FARM BILL VETO OVERRIDE

Mr. SALAZAR. Mr. President, I wish to spend a few minutes speaking about the farm bill. We will be considering an override of the President's veto hopefully later on this afternoon.

As I understand, a few hours ago, the President went ahead and vetoed this bill which we worked on so hard in this Chamber for the last 2½ years, under the great leadership of Senator HARKIN, Senator CHAMBLISS, Senator BAUCUS, and Senator GRASSLEY, along with Senator CONRAD and so many of my colleagues on the Agriculture Committee as well as the Senate Finance Committee. Hopefully, we can override the President's veto quickly because what is at stake is the security of America in so many different ways.

From what my colleagues tell me, this is the best farm bill we have written in the Congress in the last several decades. For me, there are significant portions of this bill which open whole new opportunities for America, and I wish to spend a few minutes talking about what I think some of those opportunities are.

First and foremost, we need to remind the Nation this is a bill about feeding the hungry. It is a bill about nutrition. Nearly 70 percent of the money under this legislation will go to feed the most vulnerable people in America, including providing healthy food—fruits and vegetables—for the young people of America. For my State alone, what this will mean—I come from a small State of some 5 million people—is that about $45 million a year in fruits and vegetables will go to help our young kids who are in school so they can learn healthy eating habits and so they can be in an environment where they can truly learn. So nutrition is a very big part of this legislation. It is why hunger advocates, the faith community, schools, and so many others have been beating the drum so loudly for us to get this bill completed.

Second is rural development. Rural development is a huge issue for much of this country. Today across America there are some 1,700 counties, and more than half the counties of America are designated as rural. About 800 of those counties lost population in the last few years. It is part of the America that is withering on the vine. Many of the provisions of this farm bill, including rural development sections of this farm bill, will help this part of America, which seems to be left out, to be put into a position of being second class. This farm bill invests heavily in rural America through the rural development programs that are included in this legislation.

Third is conservation. Through the leadership of Senator HARKIN and his vision for what we do with conservation, the $3 billion-plus that is added for conservation in this farm bill will help us make sure the conservation ethic we have pursued in this country is something we can preserve for a long time to come.

Fourth, title IX of this farm bill is the energy title. In that title of the farm bill, we continue a policy which has been a bipartisan policy of this Congress to try to get rid of our dependence on foreign oil and to try to harness the power of the wind, the power of cellulosic ethanol, the power of hydroelectricity, the power of geothermal, and so many other renewable energy resources. Rural America stands ready to grasp the reins of responsibility and opportunity to help us achieve energy independence in a real way. So the energy section of this bill is a very important part of it, and so many people have been a part of this and have worked on this legislation.

Finally, I would say this is work which has involved the administration now for 2½ years. It baffles me that this President would turn his back on the people of America by vetoing this

farm bill, knowing his administration has been helping us craft this bill. The excuse I have heard, which has been out there in public, is this farm bill raises taxes. This farm bill doesn't raise any taxes at all. Unlike the fiscal recklessness we have seen over the last 7 years with this administration, what we have done is we have paid for this bill. This bill is 100 percent paid for, and it is paid for without a tax increase. It is paid for with the reforms we have included in this farm bill.

So I am hopeful when this legislation does get over here to the floor for the consideration of the override of the President's veto, we will have a near acclamation of a vote against the President's veto of the farm bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MENENDEZ. Mr. President, I ask unanimous consent to speak as in morning business for approximately 10 minutes.

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

SUPPLEMENTAL APPROPRIATIONS

Mr. MENENDEZ. Mr. President, as we debate the supplemental, I want to speak about the importance of extending unemployment insurance to our economy and to so many of our fellow Americans.

I know if Senator KENNEDY were on the Senate floor today, he would be leading this effort, lending his powerful voice, as he always does, with fervor and passion on behalf of those in this Nation who are in need. I certainly hope and pray that he will be with us once again lending his voice to this and so many other critical issues.

Mr. President, we know there are Americans in need. These are difficult economic times, not just for Americans on the bottom of the economic ladder but for Americans from all walks of life.

In the past year alone, as this chart indicates, losses in the stock market and in home values have totaled $2.7 trillion each—that is trillion with a ''t.'' Foreclosures have risen 130 percent since 2006. Some 20,000 families lose their homes every week. This combination of a credit and housing crisis isn't just affecting Wall Street or homeowners, but it is reaching throughout our economy and putting a strain on businesses, large and small, from factories to restaurants.

Under the pressure of this economic squeeze, the economy has lost 260,000 jobs in the last 4 months alone. Beyond just the loss of the jobs, what is hurting those who have lost a job is the time it is taking to find a new job. These are not individuals who are just sitting back and waiting for someone to offer them a job. These are people who are actively engaged in the labor market and looking for gainful employment, looking for the dignity of a job.

This chart shows us the average length of unemployment has risen to almost 17 weeks—longer than at any time Congress has extended benefits in the past 30 years. In my State of New Jersey, each week some 3,000 more unemployed workers are exhausting their benefits. It is not that they are sitting back at home. They are engaged in the market looking for jobs—many times even outside of their field, simply to be gainfully employed.

While we certainly hope some of the recent efforts we have performed in the Congress to stimulate our economy will be successful, there are still troubling signs. Long-term unemployment is higher now than before the last recession. Mr. President, 17.8 percent of people unemployed find themselves searching for a job for over 27 weeks. That is a 58-percent increase since the year 2001. Statistics show those who are unemployed are going to have a very difficult time finding a job, as there are 7.6 million unemployed Americans competing for only 3.8 million jobs. That is two workers for every job.

Some are struggling more than others. Veterans and minorities have been disproportionately burdened by our struggling labor market. Young male veterans who answered the call to protect our Nation after September 11, 2001, are now faced with an 11.2-percent unemployment rate—well over twice the national average. A total of 21,588 newly discharged veterans are now unemployed and collecting unemployment insurance.

It seems to me the last thing these brave men and women who risked their lives dodging bullets and IEDs in Iraq and Afghanistan should have to worry about is finding a job when they come home. And when they cannot, it seems to me the last thing they should have to worry about is not having any income to sustain themselves and their families. Now they are standing in an unemployment line, and pretty soon they will not be able to do that either.

Minorities are also being hit especially hard by our current economic conditions. For Hispanics, unemployment has grown to 6.9 percent. For African Americans, unemployment has grown 8.6 percent. Both are well beyond the national average. We cannot ignore the fact that the subprime crisis has also disproportionately affected some communities more than others. Unfortunately, for many of these hardworking Americans, their hope of obtaining and continuing to keep the American dream has instead become a personal nightmare.

These statistics are not just numbers. The 260,000 jobs lost this year, the 7.6 million Americans who are unemployed, the 21,000 veterans collecting unemployment—this is not just economic data. Behind each number is a story and an American worker who is struggling.

Let's take a moment to imagine what it would be like to be one of these workers. All of the Members of the Senate are gainfully employed. But try to put yourself in the shoes of one of these American workers. Imagine you have two kids, you have a mortgage to pay, and you just lost your job. That alone is a scenario that could lead any family into hard times. If you are also facing foreclosure because of a bad subprime mortgage that has reset to a higher rate, or if losing your job meant losing your health care insurance that provided coverage for your children, imagine how powerless you would feel. Imagine the uncertainty of not being able to find a job, not being able to pay for your child's college education for the next semester, not being able to keep the home in which your children grew up. Imagine what that must be like.

Mr. President, there are hundreds of thousands of Americans facing these very dire circumstances, who know all too well, unfortunately, what it feels like. It is up to us to lend them a helping hand during their darkest days. That is what the extension of unemployment benefits in the supplemental will accomplish.

On top of that, we also know extending unemployment is one of the most effective ways to help the economy. For every dollar the Government provides in unemployment insurance, $1.64 goes right into our economy.

While I, along with many of my colleagues, believed this should have been part of the stimulus we had earlier, I am pleased we have another chance.

Today, as unemployment and the cost of living continue to rise, it is even more imperative to act now and do what is right. Mr. President, 1.4 million workers have been actively looking for a job for more than 6 months—half a year of their life actively looking for a job. As it is becoming harder to find a job, more families are running out of their unemployment benefits. Thirty-six percent of workers exhaust their benefits before finding a job, and many expect that number to increase. In March of this year, 45 percent of New Jerseyans receiving unemployment insurance exhausted their benefits before finding a new job.

We have a chance to fairly and reasonably address the challenges that long-term unemployment are creating for many fellow Americans. Extending unemployment insurance will help those who are hit hardest and give the economy a much needed shot in the arm.

We have this opportunity to act, and act now. I cannot understand when those who try every day, get up and go

out into the market to try to find a job—when we have twice the number of Americans as there are jobs competing for employment—why we are saying to veterans who have come back and others who are standing on an unemployment line that soon that will be cut off as well. It is unconscionable.

We have an opportunity to change that in this supplemental. I hope our colleagues who enjoy the benefits of gainful employment will give the American workers the helping hand they need and stimulate our economy by supporting the extension of the unemployment insurance.

I yield the floor.

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

Mr. SANDERS. Mr. President, I want to say a few words about two important components of the domestic supplemental bill which, in my view, must be passed whenever we end up considering that legislation, and that is the new GI educational bill and the billion dollars in the bill for the Low Income Heating Assistance Program.

As an early cosponsor of the post-9/11 Veterans Educational Assistance Act, I am here today to ask my colleagues not only to pass this legislation but pass it with big numbers so if President Bush decides to veto it, we will have the votes—and he knows we will have the votes—to override that veto.

The soldiers who have served in Iraq and Afghanistan have paid a very heavy toll. In Iraq alone, over 4,000 have died, over 30,000 have been injured, and tens of thousands more have come home with post-traumatic stress disorder and traumatic brain injury.

In my State of Vermont, middle-aged dads and moms have left their families, they have left their kids, they have left their jobs, and they have joined their fellow members of the National Guard and Reserve in a kind of war they never dreamed they would be fighting. But they went to war and they did their jobs, and they did their jobs well and without complaint. They gave as much as they could give for their country, and now it is our turn to give back, not only for them but for the well-being of our entire economy.

The original GI bill was an appropriate way for a grateful nation to say thank you for the service and sacrifice of those who wore our country's uniform. That bill was not only a way to express our appreciation to the greatest generation, but it enabled millions of Americans to get a college education, and by doing that, it helped reshape the American economy, it created immense wealth, and allowed millions of Americans to enter the middle class.

There are, in fact, those who believe that the GI bill was one of the major reasons for the strong economic spurt this country enjoyed from the end of World War II to the early 1970s.

Unfortunately, as many returning soldiers understand, today's GI educational benefits do not match up with what the World War II veterans received and do not come close today to covering the cost of a college education. That is why it is so important that we update these benefits by passing the new GI bill, both for our Active-Duty soldiers and for the National Guard and Reserve.

As a nation, we must understand that caring for our servicemembers is part of the cost of going to war. If we are going to go to war, we cannot forget about the men and women who put their lives on the line and returned from that war.

There are some who say this bill is too generous for our servicemembers, that we cannot afford to provide these benefits. I disagree. If we can spend $12 billion every single month paying for the cost of the war in Iraq, we surely can spend the equivalent of 4 months of that war to pay for the cost of the educational benefits for these men and women for a 10-year period.

The new GI bill will cover the highest in-State undergraduate tuition at a public college or university where the veteran is enrolled, plus a living stipend, and would be based on how long the veteran served in active duty. This money could also be applied to law school, medical school, or approved programs of study.

This is an extremely important piece of legislation. I congratulate Senator WEBB for offering it. And now it is our job to pass it.

There is another component of the domestic supplemental that also must be passed, and that is the $1 billion in additional funding for LIHEAP that was included in the supplemental appropriations bill through the adoption of an amendment by Senator JACK REED of Rhode Island. I thank Senator REED for offering that amendment and for getting it passed in the Appropriations Committee by a bipartisan vote of 20 to 9, which included 5 Republicans.

Furthermore, I have been active on that issue by authoring a letter, which was cosigned by 20 of my colleagues, including 4 Republicans, who also understand the absolute imperative for increasing funding for LIHEAP.

Two years ago, under the leadership of Senator SNOWE and many other Senators, LIHEAP funding was increased by $1 billion above the appropriated level because it was well understood that at that time, we faced a home heating emergency. I strongly agreed with that assessment. But if we faced a home heating emergency a year ago, we face a much more severe home heating emergency today, and that is because the price of heating oil and propane are escalating off the roof. They are much higher today than they were several years ago. It is absolutely imperative that we significantly increase funding for LIHEAP if we are not to see the purchasing power of this program eviscerated.

While $1 billion is a good step forward, the truth is, we are going to need a lot more than that to keep pace and level fund in terms of real dollars what the American people are receiving from LIHEAP.

Two years ago, as you know, the price of heating oil was less than $2.50 a gallon. Today it is about $4.50 a gallon. What I can tell you is that last winter in the State of Vermont, there were families unable to heat their homes. Families with children became sick because the temperature in those homes was too low. That was last winter. Certainly if that was the case last winter, it will only be worse next winter.

Let us be very clear that the LIHEAP program addresses not only families who are worried about keeping warm in the wintertime, it also addresses the very serious problem of families, especially older people, who, when the weather gets 100-plus degrees, will be too warm in the summertime.

It also addresses the issue of more and more Americans having their electricity disconnected. According to the National Energy Assistance Directors Association, which represents the State directors of LIHEAP, a record-breaking 15.6 million American families, or nearly 15 percent of all households, are at least 30 days late in paying their utility bills. Several States have laws on the books that impose a moratorium on cutting off essential utility services in the winter. However, these utility shutoff moratoriums expire during the spring. Without additional LIHEAP funding, senior citizens on fixed income, low-income families with children, and persons with disabilities from all across this country are in danger of having their essential utility services shut off this spring. This is going on in California, Iowa, Massachusetts—all over this country. Rapidly rising energy costs are the major reason so many Americans are late in paying their energy bills. It is extremely important, therefore, that additional LIHEAP funding be included in the supplemental to address these urgent needs.

I hope very much when we get around to addressing the domestic supplemental bill that, A, we absolutely pass this legislation with strong numbers for our veterans to give them the educational opportunities they need and our country needs and, B, let us not forget that with the cost of gas and oil soaring, millions of Americans will go cold next winter. There are people who will suffer this summer unless we pass an expanded LIHEAP program.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

ORDER OF BUSINESS

Mr. CONRAD. Mr. President, I have just spoken with Senator GREGG, the ranking member of the Budget Committee. He has graciously agreed that I could begin to discuss the budget conference report. He is at the White

House and will be returning shortly. We have agreed in principle that the time I consume and that perhaps he consumes when he later arrives will be used against the 10 hours, that we will do that retroactively. But we start without an agreement because they are working on a global agreement as to how we will conclude the work of the Senate the remainder of this week. Until they have that agreement, we will not reach a unanimous consent agreement with respect to how we dispose of the budget conference report.

For the information of colleagues, there is up to 10 hours allocated to the budget conference report discussion. We hope that could be done in less time, obviously, and that we might vote this evening, for the notice of my colleagues, or potentially tomorrow, depending on how long it goes and the decision of the leadership.

Before I begin the discussion of the conference agreement, I ask that the clerk keep a close tab on the time because we will try to reach an agreement later to retroactively apply the time.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from North Dakota is recognized.

SENATOR EDWARD KENNEDY

Mr. CONRAD. Mr. President, before I begin on the budget conference report, I wish to say publicly how the entire Senate family is thinking about Senator KENNEDY and Vicki and the family, how much we miss him, his presence on the floor, how much we miss his presence at our caucus, and how much all of us are fervently hoping for his full and quick recovery.

If there is anybody who can beat this, it is TED KENNEDY. He is a lion. Rarely have I ever met somebody of such force of will, somebody who is so totally dedicated to serving the people whom he represents, someone who cares so deeply about America's democracy, about this institution.

On both sides of the aisle, I have had many Senators say to me: TED KENNEDY is simply the most productive Senator among us. Nobody turns out more work, more quality work than he does. Whether you agree with his legislative positions or disagree, you have to admire the incredible energy and devotion that he brings to the job, the respect he has for this institution, and his determination to advance causes in which he believes.

My family has been close to the Kennedy family for many years. When John Kennedy's advance people came to North Dakota or Robert's advance people or TED KENNEDY's, they always stayed with my family. So I have always felt a very close association with the Kennedy family.

Anybody who looks back on his extraordinary service here, virtually unparalleled in the history of the Senate, has to have profound respect for TED KENNEDY, for his work, his values, his deep and abiding love of this country, and of the institution of the Congress, and his respect for the Presidency of the United States.

I want Senator KENNEDY to know that all of us here are pulling for him. I want Vicki to know that we stand ready to do whatever we can to lighten her burden and the burden of the rest of the family.

I deeply admire Senator KENNEDY. Also, what a light he is in this Chamber. He uplifts the rest of us. I have seen many times, when others were stricken in this Chamber, the first person to call was TED KENNEDY, always eager to help when somebody faced a tragedy.

We are thinking about Ted.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. CONRAD. I will be happy to yield.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Utah is recognized.

Mr. HATCH. Mr. President, I am so grateful to the Senator. I wish to associate myself with the remarks of the distinguished Senator from North Dakota and tell him I don't know anybody in the Senate who feels more deeply about Senator KENNEDY than I do. We have been adversaries for 32 years. We have also been partners.

I have watched what their family has given to America. I love his sisters. I love the in-laws. I know he raised the children, and they are good kids. I have great faith in TED KENNEDY as a person who will fight back with the faith and prayers of all of us in the Senate and millions of others across the country. I believe Ted will be able to come back, and he will come back, and I believe he will be able to whip this problem. I am going to exert all the faith and prayers I possibly can to help him do it.

I agree with the distinguished Senator, whenever any of us encountered great difficulty, he was always the first to call.

We have worked together on so many pieces of legislation, landmark legislation, that I wish to personally compliment him for being willing to cross the aisle in so many ways and to work out difficulties. One of the last things we worked on was the bio bill. That is a very complex, difficult bill, and we worked along with Senator ENZI, who is a wonderful companion of Senator KENNEDY on the HELP Committee. We worked with Senator CLINTON, who added a great deal to the work on that bill. Senator SCHUMER was a great asset on that bill. These are people for whom I have great respect.

Let me say to Ted and Vicki that our prayers and our faith are with both of them and their children and the rest of the extended family, and we will do everything in our power to support Senator KENNEDY in this time of difficulty. I personally believe that if we have enough faith and pray hard enough and with the great clinical help he will have, Senator KENNEDY will return and continue to do the job he believes in. I know he appreciates everybody who has spoken out for him, who has expressed concern, who has expressed anguish, as I do here, about his present situation. I know he is facing this with a great sense of humor, which is one of the most endearing qualities Ted Kennedy has, among many endearing qualities.

He carries so much weight on the Democrat side and, of course, for those of us who work with him on the Republican side, a lot of weight with us as well. So I want him to know we all love him, appreciate him, and appreciate the leadership he has provided through the years and the quality of the person he is.

If the distinguished Senator would allow me to address another topic, I would be very grateful.

Mr. President, I ask unanimous consent that these new sets of remarks be placed in the RECORD at an appropriate place.

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

Mr. HATCH. I will have more to say about Senator KENNEDY later, but I wanted to make those few remarks here today.

COMBATING CHILD EXPLOITATION

Mr. HATCH. Mr. President, the exploitation of children is a plague. It is a war with many fronts, and we must be engaged in them all. I wish to review some of the ways we are fighting this good fight and encourage my colleagues to be as relentless in protecting children as are those in the world who exploit them.

Just 2 days ago, the Supreme Court upheld our most recent attempt to combat the spread of child pornography. In a 7-to-2 decision—an overwhelming vote by the Supreme Court, by the way—the Court held that the PROTECT Act is consistent with the first amendment. I introduced the PROTECT Act in January 2003. It passed this body unanimously in February, passed the House without objection in March, and was signed into law in April. The PROTECT Act prohibits the pandering or solicitation of child pornography.

Child pornography is perhaps the most egregious form of exploitation. It not only victimizes and brutalizes children directly but makes a permanent record of that abuse that may never be erased. Child pornography is not protected by the first amendment, which means its possession and sale can be banned.

In 2002, the Supreme Court struck down the Child Pornography Prevention Act, a bill I introduced in the 104th Congress. So we went back to the drawing board. If the objective is important—and I do not believe any objective is more important than protecting children from exploitation—then we must not take no for an answer. We must not let speed bumps,

roadblocks, or potholes, or Supreme Court decisions stop us.

The PROTECT Act was the result. We studied the Supreme Court's decision and used its guidance to craft a bill that would prohibit the offer to distribute or the request to receive child pornography. When it upheld the PROTECT Act this week, the Court said that the speech this law targets is what literally introduces this destructive material into the distribution network. Now the PROTECT Act can be deployed in our ongoing, never-ending fight to protect children from exploitation, and I am glad it can be deployed.

I thank my colleagues for not giving up, for not throwing up your hands when the Supreme Court initially said no. I thank you for rolling up your sleeves, for joining with me to find some way to protect children.

Let me quote from the closing paragraph of Justice Antonin Scalia's opinion this week in United States v. Williams:

> Child pornography harms and debases the most defenseless of our citizens. This court held unconstitutional Congress' previous attempt to meet this new threat, and Congress responded with a carefully crafted attempt to eliminate the First Amendment problems we identified. As far as the provision at issue in this case is concerned, that effort was successful.

While the 108th Congress passed the PROTECT Act, the 109th Congress passed the Adam Walsh Act. The Adam Walsh Act was a comprehensive child protection bill hailed by agencies and organizations throughout this country for its importance.

This legislation enhanced the Web technology available for tracking convicted sex offenders and replaced outdated and inaccurate Web sites with meaningful tools to protect children.

Today, there are more than half a million registered sex offenders in the United States. Unfortunately, many of them receive limited sentences and roam invisibly through our communities. With too many, we don't know where they are until it is too late. Under this law, offenders are now required to report regularly to the authorities in person and let them know when they move or change jobs. If they do not want to follow the rules, they will go back to jail because failure to provide meaningful information is now a felony. In addition, the law created a searchable national Web site that interacts with State sites. Citizens in every State are able to inform themselves about predators in their communities with accurate information.

Unfortunately, many of the enforcement provisions in the Adam Walsh Act have not been funded, and I am fully aware of the competing demands for funding but have no doubt that Americans throughout this country would approve of Federal tax dollars being utilized to ensure that criminals who blatantly trade in child pornography are made to pay a high price for these crimes. I urge my colleagues to show their dedication and resolve to fully fund the Adam Walsh Act.

In another important development, last night the Senate passed the Protect Our Children First Act. I joined Senator LEAHY in introducing this legislation last July, and it is now on its way to the President to be signed into law. This legislation authorizes continued funding for the National Center for Missing and Exploited Children, a center we helped to create. The collective expertise of the center has been invaluable in efforts to address child exploitation, and this bill will ensure their vital work will continue.

With all of the tremendous advantages brought about by the Internet, it has also provided a means of communication which criminals use to advance their crimes. We are all aware that pedophiles are utilizing the Internet to facilitate distribution of illegal child pornography. Everyone agrees this type of crime is the most heinous imaginable, but many think the people who trade these horrendous videos and pictures must set up elaborate technology to facilitate their illegal activities. Unfortunately, this is not true. Many individuals throughout this country utilize peer-to-peer software to share illegal child porn with as much ease as sharing MP3s. Many criminals don't even bother trying to hide what they are doing. They utilize graphic words and acronyms to describe the horrible pictures and videos which they willingly share with one another. They seem to have no fear of being caught by law enforcement.

To illustrate this point, I want to highlight a graphical representation of the locations where law enforcement determined child pornography videos were hosted on computers and shared via peer-to-peer software. It is as disturbing as it is eye-opening.

This map shows the continental United States and locations where child pornography was electronically traded on May 15, 2008. This is just 1 day in the life of this country—6 days ago, as a matter of fact. And it is not meant to be all-inclusive; these are the ones we know of. You can imagine how many there must be. Just in the DC area, look at the child pornography electronic trades. And those are the ones we know about.

Now, this type of activity has created a market for new child pornography. In order to move into the higher echelons of this criminal activity, individuals need to offer new material, new graphic pictures and videos. Many of these criminals find that the easiest way to get new materials is to make it themselves; thus, a vicious cycle is created. These monsters, in some sick, sadistic goal of obtaining stature, videotape their crimes against children in order to facilitate their twisted version of moving up the ladder.

Congress has done a great deal to address this issue. We have passed numerous statutes in order to ensure those who harm children face the most serious penalties possible.

While many local law enforcement agencies are doing a fantastic job addressing these crimes, they are often limited by a lack of manpower and equipment. One program that has had great success is the Internet Crimes Against Children—the ICAC—Task Force Program, which has utilized State and local law enforcement agencies to develop an effective response to child pornography cases. These ICACs provide forensic and investigative activities, training and technical assistance, victim services, and community education.

Last week, the Senate Judiciary Committee passed legislation, which I cosponsored with Senator BIDEN of Delaware, which would take significant steps in highlighting the Federal Government's strategy to address child exploitation and ensuring that each State has an ICAC.

The bill also calls for an annual report from the Attorney General, which will represent the national strategy for child exploitation, prevention, and interdiction. I believe this report will be invaluable for the effective coordination of Government efforts to address this problem.

I have no doubts this legislation will be instrumental in combating child exploitation, and I urge my colleagues to pass this bill quickly.

I also wish to mention another extremely valuable organization that is playing a vital role in locating missing children. A Child is Missing is a nonprofit organization assisting the police in the first hours after a child's disappearance. For over 10 years, this organization has provided local law enforcement with technology otherwise unavailable to them.

Here is how the program works. When a child is missing, local law enforcement contacts the organization with details of the disappearance, including the child's description, clothes, and last known location. A Child is Missing records a message on behalf of the police agency, and this message is phoned out to the geographical area where the child was last seen. The organization has the ability to send over 1,000 calls in 60 seconds. This message asks for residents to contact the police if they have any information.

The effect is instantaneous in that this service opens the eyes of the entire neighborhood in search for the missing child. We all know these first few hours are critical in finding missing children, making this service critical. This is the only program of its kind in the country, and law enforcement has credited it with over 300 safe assisted recoveries. This service is available to law enforcement throughout the country and at no charge to the agencies. It operates 24 hours a day, 365 days a year.

I have joined Senator MENENDEZ in introducing legislation, S. 2667, to ensure that this organization will have the funds to continue to offer law enforcement throughout this country this invaluable service. I am hopeful this bill receives prompt consideration.

In conclusion, Congress has many opportunities to advance the worthy cause of reducing child exploitation. I call on my colleagues to continue this noble cause and pledge my continued support to advance appropriate legislative endeavors.

FISA

Mr. HATCH. Finally, I wish to briefly turn to FISA. This Congress has been working on FISA modernization for over 400 days with apparently no end in sight. Should it take this long? The Constitution of the United States was written in about 115 days. That included travel time on horseback for the Founding Fathers.

Congress has had plenty of time to debate this issue. We have to make sure we do not create unnecessary obstacles for intelligence analysts to track terrorists. As has been said, they can't connect the dots if they can't collect the dots.

While negotiations continue, it is important to look at the two bills that have passed the Chambers. Let me paint a picture, a Tale of Two Bills, if you will. One bill was available for the public to review for over 4 months, went through 2 committees, had 2 weeks of floor debate including votes on 13 amendments, and passed the Chamber with a huge bipartisan veto-proof majority.

The other bill was available for review for 2 days before receiving a vote. It went through no committees, had 1 hour of floor debate, allowed no amendments, and failed to receive bipartisan support, while barely passing the Chamber. Any negotiator would say the first bill in this instance would be the basis for negotiation, not the other way around. I am sure it is no surprise to anyone that the first one I described is the Senate-passed bill.

Make no mistake, I will not support any compromise that disregards the extensive work of the Senate in order to facilitate a quick political fix.

I appreciate those who are standing tall on the FISA bill in both Houses. I hope we continue to do so because our very country is in jeopardy if we do not.

Also, I wish to personally pay tribute and give my gratitude and thanks to the distinguished Senator from North Dakota for his kindness in allowing me to make these remarks out of turn because they are important remarks. I would feel badly if I didn't get on the floor and make these remarks. It was a very gracious thing for him to do.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. CONRAD. I thank my colleague, Senator HATCH. He is always gracious. I also thank him for his words on Senator KENNEDY because we know they have shared a close association in the Chamber for many years.

I also thank him for his leadership on child pornography. It is pretty sick, some of the things that go on. It is almost hard to believe. I saw the slide the Senator from Utah showed about activity on just 1 day of this year, earlier this month. It is almost hard to comprehend. We thank him for his leadership there as well.

Mr. HATCH. I thank my colleague for his kindness. He has always been very gracious and particularly gracious to me.

MORNING BUSINESS

Mr. CONRAD. Mr. President, I ask unanimous consent that we be in a period of morning business, that Senators be permitted to speak for up to 10 minutes each, and that the clerk keep a close count on the time consumed and that this period be for debate only. We are asking colleagues—we do not have a unanimous consent agreement—but we are asking colleagues to confine their remarks to the budget because we have up to 10 hours and, in the interest of getting the work of the Senate done before the break, it will be most effective and most efficient if we can focus our time on that.

I ask unanimous consent that after I am done, Senator GREGG be recognized, that I be allowed such time as consumed and the Senator then be given that same opportunity.

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

THE BUDGET

Mr. CONRAD. Madam President, we are now considering the conference report on the budget. For the knowledge of my colleagues, and especially my colleague, Senator GREGG, I will consume somewhere in the range of 35 minutes. If he has other things to do, we can get that word to him so he is not inconvenienced while I make an opening statement.

Here is what we are confronting—a very dramatic deterioration in the budget condition of our country. You can see, in 2007, the official deficit was $162 billion; that is down from what had been record levels. We achieved an all-time—not achieved, there is no achievement to it—we saw an all-time record deficit in 2004 of $413 billion. That became the record. The year before was the record up until that point—$378 billion in the red. Of course, the real situation is far worse because this does not disclose how much the debt has been increased.

Then we saw some improvement, to 2007, a deficit of $162 billion. But now we are right back at record levels—$410 billion estimated for this year. I believe it is going to be even worse, and 2009 will be about the same level.

When I talk about debt, here is what I am talking about. The gross debt of the United States has gone up like a scalded cat under this administration. When this President came into office at the end of the first year, the debt stood at $5.8 trillion. By the time we are done with the 8 years he will have been responsible for, the debt will have increased to more than $10.4 trillion—a near doubling of the debt of the country. Increasingly, this money is being borrowed from abroad. As this chart shows, it took 42 Presidents—all the Presidents pictured here, 224 years to run up $1 trillion of U.S. debt held abroad. This President has far more than doubled that amount in just 7 years. There are over $1.5 trillion of foreign holdings of U.S. debt run up by this President in just 7 years. He has taken what 42 Presidents took 224 years to do and he doubled it and then added another 50 percent to foreign holdings of U.S. government debt. The result is we owe Japan over $600 billion, we owe China almost $500 billion, we owe the United Kingdom a little over $200 billion, we owe the oil exporters over $150 billion. My goodness, we owe Hong Kong over $60 billion. We now owe Russia over $40 billion. That is a sad fiscal record, but that is the legacy of this President's fiscal policy.

This tremendous runup in foreign debt means we have spread dollars all over the world and are now increasingly dependent on the kindness of strangers to finance our debt here. One of the results of that has been a substantial drop in the value of our currency. If you think about it, the value of a currency is in part a reflection of supply and demand. When you put out a tremendous supply of dollars, guess what happens to the value of the dollar—it goes down. That is what has happened.

You can see back in 2002, this is Euros per dollar. It was 1.13 in January 2002. Through the end of last month, we were down to .63. The value of the dollar against the Euro has dropped like a rock. It has dropped 44 percent.

If anybody is wondering why food prices are going up so rapidly, why oil prices are going up so rapidly, here is one of the key reasons. Those commodities are sold in dollar terms in the world market. When the dollar goes down in value, guess what happens to the value of commodities: there is tremendous upward pressure on their value. That is what, in fact, has happened.

We have also seen the economic growth of the country stagnate. You can see, if we look at the nine previous business cycles we have experienced since World War II, you can see that economic growth averaged 3.4 percent a year during previous business cycle expansions. But, if we look at average annual economic growth since the first quarter of 2001, we see it is stagnating at 2.4 percent.

Something is happening in this business cycle that is unlike what we have seen in the nine major business cycles we have seen since World War II. We see this recovery is much weaker. We see it in job creation; we see it in business investment.

For example, on job creation, if you look at job creation, again looking at

the nine previous business cycles since World War II, and you look at the months after the business cycle peak and look at job creation—this dotted red line is the average of the nine other major business cycles since World War II—that is the dotted red line. Now, this other line is the current business cycle. You can see that we are 10.3 million private sector jobs short of the typical recovery since World War II. In other words, if you take all the previous nine major business recoveries since World War II and you average them, compare them to this business recovery, we are running 10.3 million private-sector jobs short in this recovery.

What does that tell us? That tells us something is wrong, something is wrong with our economic performance.

We don't just see it in job creation. We see it in business investment. Again, the dotted red line is the average of the nine previous recoveries since World War II. The black line is this recovery. You can see that we are now running 59 percent below the pace of business investment at the same point during the nine previous recoveries. Something quite significant is happening in terms of our national economy. Anybody who does not see this and understand it and seek to find solutions to it, I think is missing the point. There is something wrong with the underlying economy that has been affecting us since 2001. It is so atypical, it is so different than the other nine recoveries since World War II.

This budget resolution seeks to address some of what we know. It seeks to strengthen the economy and create jobs in several different ways, first, by investing in energy, education, and infrastructure. We think those are priorities to strengthen the economy. It expands health care coverage for our children; it provides tax cuts for the middle class; it restores fiscal responsibility by balancing the budget by the fourth and fifth year of this 5-year budget plan.

It also seeks to make America safer by supporting our troops, by providing for veterans health care, by rejecting our homeland and rejecting the President's cuts in law enforcement, the COPS Program, and for our first responders, our emergency personnel, our firefighters, our emergency medical responders.

In terms of the tax relief that is in this budget resolution, this budget conference report that has come back from an agreement with the House of Representatives, we do the following things. We extend middle-class tax relief, specifically: the marriage penalty relief is provided for; the child tax credit is provided for; and an extension of the 10-percent bracket.

We also provided for alternative minimum tax relief, because we know if we did not, the number of people who would be exposed to the alternative minimum tax would explode from roughly 4 million now to 26 million if we failed to take action.

We also provided for estate tax reform. Right now we are in this bizarre situation where the estate tax goes up to $3.5 million of exemption per person in 2009; the estate tax goes away completely in 2010, there is no estate tax; and then in 2011, it comes back with only a $1 million exemption. We say that makes no sense at all. We should extend the $3.5 million provision per person, $7 million a couple, and index it for inflation.

We also provided for energy and education tax cuts to provide incentives to develop alternative forms of energy and reduce our dependence on foreign oil. We also provided property tax relief and, of course, the popular and important tax extenders, things such as the window energy credit, the solar credit, the research and experimentation credit. All of those are provided for in this budget.

We balance the books by the fourth year, $22 billion in the black, or in this case in the green, by 2012. By 2013 we maintain balance, all the while we are bringing down the debt as a share of gross domestic product from 69.3 percent of GDP to 65.6 percent of GDP in 2013. So we are bringing down the debt as a share of gross domestic product each and every year of this budget resolution. Let me be the first to say, that is not enough. We need to be doing more. I will say in a minute how I think we can and should do more. But this is an important beginning.

One of the ways we do it is we restrain spending. Under this budget conference report, we bring down spending as a share of GDP each and every year of the 5-year plan from 20.8 percent of GDP down to 19.1 percent in 2012 and 2013.

The other side will be quick to say, but you are spending more money than the President is. That is true, we are spending somewhat more money than the President, because we have rejected his cuts to law enforcement, to our first responders, and to other things we think are priorities of the American people.

But when they talk about the difference in spending, they have a tendency to dramatically overstate the difference. Here is the difference between our spending line, which is in green, and the President's spending line. If you are looking at this on television, you probably cannot see any difference. That is because there is almost no difference between our spending line and the President's spending line.

In fact, for this year, the difference in total spending between our budget and the President's budget is 1 percent. That is the difference, 1 percent. Over the life of this 5-year plan, you can see it is a very modest difference.

Let me turn to 2009, because that is the most immediate year covered by this budget plan. You can see the Bush budget calls for $3.03 trillion of spending. We call for $3.07 trillion of spending. Again the fundamental differences are, we are investing in education, in energy to reduce our dependance on foreign oil, and on infrastructure which is so critically important to our future economic success.

On the revenue side of the equation, we also have somewhat more revenue than the President's plan because we have lower deficits and lower debt than the President's plan. Here you can see the difference. The green line is our revenue line; the red line is the President's revenue line. You can see in the first 2 years there is virtually no difference between our revenue lines; they are right on top of each other. In 2011 there is a slight difference, and 2012, 2013, as we climb out of deficit and balance the books.

But again the differences are quite modest, and here they are over the 5 years. We are calling for $15.6 trillion of revenue, the President is calling for $15.2 trillion of revenue. That is a difference of 2.9 percent. That is the difference between the revenue we have proposed, which leads to lower deficits and lower debt than the President's plan.

You will hear our friends on the other side say, this represents the biggest tax increase in the history of the world. We beg to disagree. We do not think any tax increase is necessary to meet these numbers. If someone is listening and they heard me say, well, Senator, you said you have got more revenue, although it is only 2.9 percent more revenue, than in the President's plan, but you say you can do that without a tax increase, how is that? How can you do that?

Well, here is how I would propose to do it. First, the Internal Revenue Service estimates the tax gap, the difference between what is owed and what is paid, is $345 billion a year, the difference between what is owed and what is paid.

Now the vast majority of us pay what we owe. But unfortunately there are an increasing number of people and companies who do not pay what they owe. That difference is now estimated at $345 billion a year. That goes back to 2001. I personally believe it has grown substantially since then so it would be a higher number. But that is not the only place where there is leakage in the system. I have shown this chart many times on the floor of the Senate. This is a five-story building in the Cayman Islands called Ugland House. This little building down in the Cayman Islands is the home to 12,748 companies. Let me repeat that. This little five-story building down in the Cayman Islands is the home, at least they say it is their home, to 12,748 companies. They say they are all doing business out of this building.

Now I have said that is the most efficient building in the world, little tiny building like that, and it houses 12,000 companies. How can any building be that efficient? Well, we know they are not doing business there. They are doing monkey business, and the monkey business they are doing is to avoid

taxes in this country. And how do they do it? Well, they operate through a series of shell corporations, and they show their profits in the Cayman Islands instead of the United States to avoid taxes here. Why would they do that? Do they not have taxes down in the Cayman Islands? No. Is that not convenient? So they do not show their profits here, even though they make their profits here, they show their profits down in the Cayman Islands. That is the kind of scam that is going on. If you doubt it, here is a story that came to us from the Boston Globe on March 6 of this year:

> Shell companies in the Cayman Islands allow KBR [that is Kellogg, Brown and Root] the nation's top Iraq war contractor, and until last year a subsidiary of Halliburton, has avoided paying hundreds of millions of dollars in Federal Medicare and Social Security taxes by hiring workers through shell companies based in this tropical tax haven.
>
> More than 21,000 people working for Kellogg, Brown and Root in Iraq, including about 10,500 Americans, are listed as employees of two companies that exist in a computer file on the fourth floor of a building on a palm-studded boulevard here in the Caribbean. Neither company has an office or phone number in the Cayman Islands, but they claim it is their home.

This is a scam. That is what is going on here. This is the largest defense contractor in Iraq, and they are engaged in a total scam to avoid taxes in this country. If this does not make people angry, I do not know what it would take, because what they are doing is they are sticking all of the rest of us who are honest with our tax obligations. It does not stop there.

Here our own Permanent Committee on Investigations issued this report last year:

> Experts have estimated that the total loss to the Treasury from offshore tax evasion alone approaches $100 billion per year, including $40 to $70 billion from individuals, and another $30 billion from corporations engaging in offshore tax evasion. Abusive tax shelters add tens of billions of dollars more.

So when somebody says: Well, you have got to raise taxes to produce 2.9 percent more revenue than the President has called for, I say, no, you do not. Let us go after some of this stuff. Let us go after these offshore tax havens. Let us go after these abusive tax shelters. Let us go after this tax gap.

Now, the other side will say, well, there is nothing you can do about it. Well, certainly there is nothing you can do about it if you do not try. You cannot do a thing if you do not try. But if you try, you can get this money. Let me say, I know you can, because I used to be the tax commissioner for my State. I was the chairman of the Multistate Tax Commission. I went after this money. I got hundreds of millions of dollars for my little State of North Dakota going after some of these scams. The United States could do much more.

Here is a picture of a foreign sewer system. This is a sewer system that is in France. Why do I put up a picture of a sewer system in Europe when I am talking about the budget of the United States? Well, because the two have a linkage. What is the linkage? The connection is that we actually have investors in this country buying European sewer systems, not because they are in the sewer business, no, no, no. They are buying European sewer systems to reduce their taxes in this country. How do they do it? It is very simple. They go over, they buy a European sewer system, they then show that on their books as a depreciable asset. They depreciate it over a period of years to reduce their taxes in this country, and then lease the sewer system back to the European city or municipality that built it in the first place.

Now, why should we allow that? This is the kind of thing I think we can shut down and easily achieve 2.9 percent more revenue than the President has proposed. The question comes, well, why haven't you done something about shutting down these scams already? There is a very simple reason we have not. It is called the President of the United States. Because the President of the United States has repeatedly blocked attempts to shut down these scams.

Here are a few of the examples. We tried to codify economic substance, prohibiting transactions with no economic rationale, things that were done solely to avoid taxes. The President threatened a veto.

We tried to shut down schemes to lease foreign subway and sewer systems and depreciate the assets in this country. The President threatened a veto.

We proposed ending deferral of offshore compensation by hedge fund managers trying to evade taxes in our country. The President threatened to veto it.

We proposed expanding broker information reporting so we could close down some of this tax gap. The President threatened a veto.

We proposed taxing people who give up their U.S. citizenship in order to evade taxes here in America. The President threatened a veto.

Now, I have indicated, I have acknowledged, we have 2.9 percent more revenue in our plan than in the President's budget.

The other side will say: Biggest tax increase in the history of the world. That is exactly the same speech they gave last year. Now we have the benefit of a record. Because we can look back, we can look at the speeches they gave last year, and we can look at what has actually happened this year. We can see, what did this Democratic Congress do? Did they raise taxes? No. In fact, here is precisely what happened: They reduced taxes in the House and the Senate by $194 billion. They had offsetting loophole closers, for a net tax reduction of $187 billion.

Anybody who is listening can reality test. Just go to your mailbox. Have you gotten a little check from the U.S. Treasury representing a tax cut as part of a stimulus package? Millions of Americans have, and millions more will. That is part of this $194 billion of tax reduction that has occurred with Democrats running both Houses, despite claims of our colleagues on the other side that we were going to have the biggest tax increase ever.

We all know some of the things that are happening in this economy. One is that gasoline prices are soaring. I filled up my car last week. I have a 1999 Buick. I know people think all Senators have limousines and drivers. Not me. I have a 1999 Buick that I drive myself. I filled it up last week, $52.19. The price of gasoline has soared.

In January of 2001, gas was $1.47 a gallon; in May of 2008, $3.79. We are hearing by Memorial Day gas average $4 nationwide. We have addressed that in this budget by investing in energy, creating green jobs, reducing dependence on foreign oil, and strengthening the economy.

We have provided for energy tax incentives in this budget. We have provided for $2.8 billion over the President's budget for energy to provide for alternative sources of energy, homegrown sources of energy so we are less dependent on foreign oil. We have also created an energy reserve fund to invest in clean energy and the environment. But we know skyrocketing gas prices are not our only problem.

We also know if we look at what is happening to education, we are falling behind our global competition. This is one metric to look at that, the number of engineering degrees in China and the number of engineering degrees in this country. The red line is China's engineering degrees. You can see they are absolutely soaring. There are over 350,000 a year graduating as engineers in China. In this country, we are down here at about 75,000 engineering graduates. Engineering is critical to future economic growth. We know that. So that has to be a concern. Here, China is now graduating 350,000 engineers a year; we are in the 75,000 range. That is something we have to pay attention to. Obviously, I have used one example. There are many others.

This budget resolution invests in education to generate economic growth and jobs, to prepare our workforce to compete in a global economy, to make college more affordable, and to improve student achievement. We have provided for education tax incentives to encourage people to go to college. We have provided $5.5 billion over the President's budget in discretionary funding for education, and we have created an education reserve fund for school construction and for the reauthorization of the higher education legislation.

It doesn't stop there. We also have serious infrastructure issues in this country. Here is a picture of the dramatic collapse of the bridge on 35–W between Minneapolis and St. Paul last year. I am acutely familiar with this bridge because when my wife was in

medical school, I went across that bridge many times a week. Can you imagine the absolute horror of the people who were on that bridge? Here are the cars of people who were on that bridge when it fell out from underneath them. This was at rush hour last year, one of the most heavily used bridges in the State of Minnesota.

This budget seeks to address infrastructure by providing targeted investments to repair crumbling roads and bridges, improve mass transit, expand airports and schools. It creates a reserve fund to allow for major infrastructure legislation. It provides $2.5 billion more than the President for key discretionary transportation accounts. It fully funds highways, transit, and increases funding for the Airport Improvement Program.

This budget resolution also deals with other critical national priorities, including fully funding the defense requests of the President. The President has asked for $2.9 trillion over the next 5 years. This budget provides $2.9 trillion. We also provide $3.3 billion more for our veterans health care than the President. The President has called for $44.9 billion over a 5-year period. We have adopted the independent budget, which is a budget that was put together by the veterans organizations to more fairly reflect the needs we see coming because of veterans coming back from Iraq and Afghanistan. We have allocated $3.3 billion more than the President for that purpose. We think we owe these veterans the high-quality care they were promised.

All of us who have been to our VA hospitals, who have been to Walter Reed, are acutely aware of the need for more investment in those facilities. We have also provided in this budget, in fiscal year 2009, $2.8 billion more than the President's budget for law enforcement and first responders. Inexplicably, at least to this Senator, the President has called for the complete elimination of the COPS Program. The COPS Program has put 100,000 police officers on the street, over 200 officers on the street in my home State of North Dakota. The President, in his budget, didn't just call for cutting that program. He called for its total elimination. It makes no sense to me. I just had my house here broken into while I was back home during the break. I have a fellow who rents from me in the basement. He came home from work and our place had been broken into. The place was totally trashed. Many of his things were stolen. Why we would take police off the street when, in jurisdiction after jurisdiction, we are facing heightened criminal activity doesn't make any sense.

I am getting to the end. I know my colleague has been riveted listening to me talk about these charts. He has only had a chance to see them maybe 12 times. I thank him for his patience.

We also have budget enforcement in the budget resolution, discretionary caps for 2008 and 2009. We maintain a strong pay-go rule that I know my colleague will probably want to comment on. We also have a point of order against long-term deficit increases, a point of order against short-term deficit increases. We allow reconciliation for deficit reduction only. I know this is a place where my colleague will agree. I am sure he is pleased that we don't have a reconciliation instruction in this conference report for any other purpose, and we have no reconciliation instruction for any purpose.

We also have a point of order against mandatory spending on an appropriations bill. Again, this is something the Senator will strongly support because we have seen the games that were beginning to be played when the appropriators figured out they could start to do that. We tried to shut it down or at least to create a budget point of order, maintain a budget point of order to prevent that practice from expanding.

The budget conference report also addresses long-term fiscal challenges. I don't want to overstate this because, the truth is, I don't believe an annual budget resolution is the place to deal with the long-term fiscal challenges facing the country. The annual resolutions tend to be done on a partisan basis. Our fiscal challenges are so big, so deep, my own conviction is this has to be done with a special process, a special procedure.

The Senator, who is the ranking member of the Budget Committee, and I have teamed up to offer our colleagues legislation that would create a bipartisan task force that would be responsible for coming up with a plan to deal with our long-term challenges, our fiscal challenges, the imbalance between spending and revenue, and the overcommitments we have made on the entitlement programs.

The proposal we have made is very different from what others have made because our proposal would require a vote in the Congress, not another commission report that sits on a dusty shelf somewhere. That is not going to cut it. We need a plan. We need a plan that is bipartisan. We need a plan that gets a vote. The Senator and I have a plan to do that.

While we are getting ready for that process to occur—and I hope it will—we have provided for a comparative effectiveness reserve fund to deal with health care, a health information technology reserve fund—the Rand Corporation has told us we could save $80 billion a year if we had information technology widely deployed in the health area, program integrity initiatives to crack down on waste, fraud, and abuse in Medicare and Social Security, and a long-term deficit point of order to guard against legislative initiatives that would increase the long-term deficit.

Finally, as I mentioned, Senator GREGG and I have a proposal to address these long-term imbalances, a panel of lawmakers and administration officials with an agenda of everything being on the table, with fast-track consideration, and a requirement that Congress must vote. If the members of this task force, at least a supermajority of them, were to agree on a plan, that plan would come to Congress for an assured vote and a further assurance that there would be a bipartisan outcome because we would require not only a supermajority of the task force to report a plan but a supermajority in Congress to pass it as well.

Before surrendering the floor, I thank Senator GREGG for his many courtesies and the very constructive way that he has helped run the Committee on the Budget throughout this year. He is a gentleman, a person of honor whose word is gold. I deeply appreciate that. I also appreciate very much the professionalism of his staff.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, first, I thank the chairman of the committee, the Senator from North Dakota, for his generous comments and reciprocate by saying it is a pleasure to work with him. Obviously, we have disagreements or we wouldn't be in different parties. That is the purpose of democracy. You have disagreements and reach some conclusion that, hopefully, is constructive for all.

The budget, unfortunately, tends to be a uniquely partisan statement of a party's political positions. Therefore, it is more difficult to reach agreement, especially when the Congress has both Houses of the same party. But that doesn't mean you can't do it in a cordial and, hopefully, constructive way, have your disagreements, and make your points.

I appreciate that the Senator from North Dakota has always been cordial and professional and constructive, as has his staff, to say the least.

I don't want to start off with too much hat tipping to the Senator from North Dakota; I don't want to get carried away. Let me simply say this: It is important that the Congress have a budget. It is uniquely the Congress's responsibility to have a budget. Although the President's budget gets soundly beaten about the ears here, the President's budget is not a factor in the sense that it is part of the congressional budget process.

The congressional budget is uniquely an entity of the Congress. The Congress passes it. It does not go to the President for his signature. The elements of the budget which are most important, such as the allocations to the Appropriations Committee, such as reconciliation instructions, are uniquely the purpose of the Congress as a way of giving a blueprint and defining spending and tax revenues within the fiscal policy of the Congress.

The Congress retains, under the Constitution, the right to the purse strings, and the budget is an element of exercising that right. So although the

President sends up a budget under the Budget Act, that budget rarely, if ever, becomes law. I am not aware it has ever become law. It is simply a point for discussion. When you have a Democratic Congress and a Republican President, it tends to be discussed less other than in opposition by the Congress.

So this budget is totally the responsibility of the Democratic Congress. It is passed by the Democratic membership of the Congress, not by the Republican membership of this Congress, and the President's input is at the margins, to say the least. But it is important there be a budget. Even though I may strongly disagree with it, I do think it is the responsibility of the Congress to do a budget.

Thirdly, as a note of appreciation, I do thank the Senator from North Dakota for his insistence that reconciliation instructions not be included in the bill. Reconciliation is an extraordinarily strong hammer which is contained within the Budget Act which allows basically the Budget Committee to, hopefully, control the expansion of entitlement programs. Unfortunately, last year, it was used to expand Government, not to control the rate of expansion of Government, and that was a mistake, a serious mistake that undermined, in my opinion, the integrity of the act. I am glad we are not doing it this year, and I appreciate the Senator from North Dakota insisting on the Senate position on this issue.

To address the budget specifically, this budget, as it is brought forward by our colleagues, by the Democratic membership, is a ''back to the future'' budget. You hear Senator OBAMA say he wants change. Well, this is ''back to the future'' change. It is essentially a restatement of things which always happens under a Democratic Congress. It says: Yes, we can raise taxes and a lot of taxes. It says: Yes, we can increase spending and a lot of new spending. It says: Yes, we can run up the debt and a lot of new debt. It says: Yes, we will not address entitlements and the fact that entitlement spending is a major threat to our fiscal integrity.

It is a ''back to the future'' budget. The term ''tax and spend'' exists. It may be trite, but it exists because it is accurate. This budget has the largest increase in taxes in the history of the world. It has one of the largest increases in spending. It has a $500 billion increase in entitlement spending, a $200-plus billion increase in discretionary spending. The debt goes up $2 trillion under this budget. And it is on the watch of the other party. Those are policies of the other party that are being put in place, and they are not good policies. They are not healthy. They are not constructive for the American people.

The budget, as I outlined, has the largest increase in taxes in the history of this world, especially this country, and it has an impact on working Americans. You hear a great deal, especially from Senator OBAMA, who is the presumptive nominee now of the Democratic Party after last night, that he is going to raise taxes to pay for all his programmatic activity, but he is only going to raise it from the wealthy.

Well, this budget does not assume, to begin with, most of the proposals by Senator OBAMA to spend money, but it does assume a tax increase. It assumes a $1.2 trillion tax increase, and that tax increase cannot be paid for only by wealthy Americans. If you take the top tax rate in America, and you raise it back to the top tax rate under the Clinton years, which would be 39.5 percent, every year you will add $25 billion of new revenue to the Federal Government, assuming people do not try to avoid taxes and reduce their tax liability, which wealthy people tend to do because they get accountants to show them how to do that. Well, that does not come anywhere near covering the additional taxes which are proposed in this budget, the $1.2 trillion—the $25 billion a year.

No, it is the families who are going to pay that. Forty-three million families in America will be hit under this budget, in the year 2011, with a tax increase of $2,300 or more. Those are working families, by the way. A family of four making $50,000 will have a $2,300 tax increase.

Seniors. Eighteen million seniors under this budget, in 2011, will see a $2,200 tax increase. Small businesses—the engine for economic activity, the engine for jobs in this country—27 million small businesses will see a $4,100 increase. There will be 7.8 million people brought onto the tax rolls who were taken off the tax rolls by President Bush. These are low-income individuals who no longer have to pay taxes as a result of the tax policies of the early 1980s. Those tax policies, by the way, worked. They worked. Yet there is tremendous opposition around here from the other side of the aisle to continuing those tax policies, as this budget points out.

The capital gains—I think we have a capital gains chart in the Chamber—the capital gains revenues during the last 4 years have jumped dramatically—dramatically—as a result of getting a capital gains rate which Americans feel is fair and are willing to pay. In fact, over $100 billion has been collected in the last 4 years from capital gains—$100 billion—more than was expected to be collected by the Congressional Budget Office.

Now, why is that? Why, when we cut the capital gains rate down to 15 percent, did we get more revenue? Well, as I have said before on the floor of the Senate, it is called human nature. If you say to somebody: We are going to give you a fair tax rate on your capital gains income, people will do things that generate capital gains. People do not necessarily have to do anything to generate capital gains. If you own a stock or you own a home or you own a small business and you feel the capital gains rate is too high, you would not want to sell that stock, home or small business because you would not want to pay all that money to the Government. But if the Government sets a fair capital gains rate—15 percent—then you say: All right, I will pay that tax in order to turn over that stock, in order to sell my business, in order to sell my home. I am willing to take that tax rate.

So people go out and they do things which generate economic activity. They generate capital gains. That generates revenue to the Federal Government. That is what has happened here. We have generated significant amounts of revenue we did not expect because people were willing to undertake activity which was taxable.

It has a second very positive effect, besides getting a lot of revenue in the Federal Government. A low capital gains rate—a reasonable capital gains rate—causes people to invest their money more productively. They go out and they take risks. Entrepreneurs take risks. Job creators take risks. Small businesses are started and jobs are created as a result of money being invested in a way that generates more jobs. It generates more activity, more entrepreneurship, more jobs.

This bill assumes the capital gains rate will be doubled. This bill assumes the rate on dividends may be more than doubled, depending on what your bracket is. This bill is a massive tax increase on working Americans and seniors. By the way, it is senior citizens who take the most advantage—and that is logical—of capital gains and dividend income. Most seniors have a fixed income. It is a dividend income. It usually comes from a pension they are getting or they invested in while they were in their working years or they have a home they sold, so they have a capital gains.

So the idea in this bill, which is to end the capital gains rate as it presently exists and raise it and to end the dividend rate as it presently exists and doubling it, that idea is going to disproportionately hit senior citizens. It is not going to raise the revenue that is projected in the bill because people are going to take tax-avoidance action.

But because of the way CBO scores things—it is static around here; there is no dynamic scoring—they claim this is going to raise all this revenue. It will not. But the fact is, those tax increases will slow this economy and damage working Americans and working families, as was shown by the prior chart. That is not fair.

Now, my colleague on the other side of the aisle will argue—and he argues all the time—that, no, we are not going to have a tax increase, even though the tax increase in the bill is the exact amount of money that CBO scores the ending of the capital gains rate and its increase and the ending of the dividend rate and its doubling—the exact amount of money that generates by CBO scoring.

So CBO at least is presuming, and the Democratic Party in setting forward this budget is taking advantage of, revenues that are expected to come from a significant increase in capital gains rates, dividend rates, and general rates. But we hear from the other side: Oh, we don't have to do that. We don't have to do that. They try to fudge this issue by claiming: We are going to collect this all from the tax gap.

As to the tax gap—the Senator from North Dakota probably went on for 15 minutes showing us buildings here and buildings there and subway systems here and subway systems there. Well, do you know something. We had testimony which totally rejects that. The Commissioner of the IRS came in and said: You couldn't possibly collect the type of dollars that are represented in this bill in tax increases from closing the tax gap. You can claim it in theory, but it will not happen in practice. This canard, so to say, has been used for years—years.

In 1987, the Senator from North Dakota said: I pound away at the need for a share. He said: That includes the tax gap between what is owed and what is paid. He said that in 1987.

In 1990, he said: It is both fiscally irresponsible and insulting to the vast majority of honest taxpayers in this country if we fail to tap this revenue from those who have not complied.

Then again, last year, he said: If we collect 15 percent of the tax gap, it would be over $300 billion, and that alone would come close to meeting the revenue needs under our budget.

That was last year's budget, by the way. How much did they collect from the tax gap? Zero. How much did they collect from the tax gap in 1987, when he first made this statement? Zero. How much did they collect in 1990, when he made the statement again? Zero. Throughout the 1990s, through the 2000s, the tax gap is not being closed.

In fact, instead of being closed, last year, they cut the funding to the IRS, those elements of the IRS who would most logically be people who would go out and collect extra money if it was owed. So this whole tax gap thing is nice rhetoric, but it has no substance, and it is not defensible on its face in light of the numbers in this bill. What is in this bill is the largest increase in taxes in the history of this country—$1.2 trillion.

Now, there is, in addition, the issue of the debt. The Senator from the other side is fond of pointing to the President, saying: He has increased the debt this much, he increased the debt this much. Yes, the debt has gone up significantly. I do not like that. Nobody likes that. But you cannot wash your hands of it when you produced the budget last year that added $200 billion to the debt—well, $400 billion it was going to add to the debt. I am sorry. I misstated. Over $400 billion will be added to the debt for the first Democratic Congress's budget—$400 billion. This budget presumes another $370 billion to that debt.

So this wall of debt chart—yes, the President of the United States, because he put forward budgets that increased the debt, deserves some significant responsibility here, but so do our colleagues on the other side of the aisle who are producing this budget. There is $2 trillion of new debt added to the wall of debt under the Democratic budget.

You could reduce that. You could reduce that by not spending so much money, which gets us to the next point. The spending in this bill goes up significantly. We passed the trillion-dollar threshold—$1 trillion of discretionary spending—in this bill.

Now, I suggested—and I agree it would maybe be a statement more of an attempt to make a point than a substantive event, but I suggested we set spending limits in this bill which would keep discretionary spending under $1 trillion. That would have meant that instead of increasing spending in this bill, as the Democratic proposal does, by $24.5 billion next year—which, by the way, is the 1-year number that goes up over 5 years and represents over $200 billion in new discretionary spending—they would have only been able to increase spending by $10 billion and then they would have stayed under the $1 trillion limit. But they couldn't even do that. I mean the desire to go out and spend is a genetic effect; it is a genetic existence in the Democratic position. That is why we have different parties. They believe the Government is better when it is bigger. They believe the Government is better when it takes your money and spends it. They believe Government knows how to spend your money better than you do and therefore, when they are in control—which they are and which they have been—they significantly raise your taxes and they significantly increase spending.

This budget isn't any different. As I said, it is back to the future. Is this change? It is change that takes us back to where we were when we had the last Democratic Congress. Significant increases in spending, and the budget doesn't even account for most spending which we know is coming down the pike which has already been signed on to by the majority of this party on the other side of the aisle.

For example, we have pending in the wings later today or tomorrow a supplemental that is going to add spending in the area of unemployment insurance of $15 billion, spending in the area of veterans of $54 billion. We have a farm bill coming at us that is a $300 billion bill. We have an AMT fix which this budget claims to pay for, but which we know won't be paid for, of $70 billion. The numbers go up and up and up and up, the debt goes up and up and up and up, the spending goes up and up and up, and the taxes go up and up and up. There can be no denying that. It is the way it is. I understand there is a difference of opinion, but I think it ought to be admitted to by the other side. There shouldn't be an attempt to obfuscate it by claiming we are going to get taxes from the Oz somewhere behind the curtain. The tax revenues are going to come out of working Americans. It shouldn't be claimed we are going to generate a reduction in spending when we are generating an increase in spending, and a fairly significant one. The other side of the aisle holds up this chart and says there is no real difference between the President's number and our number. ''Ours is a 1 percent difference.'' But 1 percent on $3 trillion is $300 billion. I don't know where they come from, but $300 billion is a huge amount of money—a huge amount of money.

Mr. CONRAD. Would the Senator yield on the math?

Mr. GREGG. I would yield.

Mr. CONRAD. I say to the Senator a 1-percent difference is a 1-percent difference, whatever the denominator is. One percent is a very small amount of money. I think the Senator would acknowledge that 1 percent difference is—

Mr. GREGG. I reclaim my time then. The point is I don't consider $300 billion a small amount of money. Now, maybe it is a small amount of money in North Dakota, but I do know that $300 billion would run the State of New Hampshire for I think approximately 10 years. Maybe it would only run the State of North Dakota for a couple of years, because I know you have big budgets up there, but I think it is a lot of money, $300 billion. So that is—

Mr. CONRAD. Would the Senator yield for one more moment on the numbers? One percent of $3 trillion, I think the Senator would acknowledge, is not $300 billion, it is $30 billion?

Mr. GREGG. Well, Madam President, I am happy to reclaim my time. Thirty billion dollars is a lot of money in New Hampshire. It would run the State for 10 years.

Mr. CONRAD. But would the Senator acknowledge that the $300 billion that he referenced is simply not accurate.

Mr. GREGG. No, I wouldn't, because $300 billion is a 5-year number. But I thank the Senator for making it clear that he agrees with the fact that $30 billion is a lot of money. Maybe he doesn't agree that $30 billion is a lot of money. I think $30 billion is a lot of money.

Mr. CONRAD. I would say—

Mr. GREGG. I have the time, Madam President. I have the time.

So we are talking about big dollars, real dollars and lots of new spending. Under any scenario, we are talking a number which is going to drive large tax increases not only next year but in the outyears for working Americans in this country, and it is not right to do that to them, in my humble opinion—well, in my opinion. It is not necessarily humble. I apologize.

There is another point here that needs to be made, which is there is a claim in this budget that they have put

in some sort of enforcement mechanisms called pay-go. They keep returning to pay-go as an enforcement mechanism. To begin with, they have waived pay-go, adjusted pay-go or manipulated pay-go on at least 17 different occasions for well over $175 billion in new spending. Pay-go is only used as a vehicle to try to increase taxes. If somebody wants to cut your taxes, they will claim pay-go and you have to increase somebody else's taxes to do that. But when it comes to spending around here, as we saw with the farm bill that rolled through here, pay-go has no relevance at all. It is adjusted by changing years. It is adjusted by moving numbers around. It is adjusted by, as in the SCHIP bill, artificially ending a program when you know the program is not going to end. It is scammed. So there is no credibility to claiming pay-go is in this bill.

Furthermore, real pay-go isn't even in this bill. Real pay-go says you match the year of the spending to the year of the cost, the year it is going to be offset against. This bill doesn't do that. The first year of pay-go under this bill—- you can claim you are going to offset a new spending program in the fifth year under this bill. So you game that system right to the end.

Then there is the alleged tax proposal in this bill—the Baucus amendment, as it is referred to. Well, we went through this exercise last year. The Baucus amendment was brought forward last year and the other side of the aisle put out a lot of press releases claiming they had extended the tax cuts within the Baucus amendment which included things such as the childcare tax credit and the spousal marriage penalty and I think R&D tax credit. They did a lot of press on that and there was a great deal of fanfare after they took the vote on the budget that claimed they were going to pass a bill which would accomplish these tax cuts, extending them. Where is the bill? Where is the bill? It never passed. There were no extenders passed. The whole amendment turned out to be a fraud. So they—well, it worked so well last year with the press release, they have done it again this year. They have done it again this year. They have claimed they are going to pass those extenders, which they didn't do last year, and they may do it this year, I don't know. I haven't seen anything yet that implies to me they are going to do it. But if they did do it, just to make darn sure that it actually never had any serious effect, they put language in the bill which basically creates a Rube Goldberg system where they take back the tax deductions if a deficit occurs. Well, they know a deficit is going to occur because they have already put in place spending initiatives which exceed the alleged surpluses they have in this bill. Just the veterans benefit we are going to vote on tomorrow theoretically, and which will pass here at some point, is going to knock out the alleged surplus. So all of these alleged tax extenders which theoretically they are going to pass and at least they are going to put press releases out on are not going to occur, because they put language in this budget which says if there is a deficit, those tax extenders are recaptured, and they end. They come to an end.

So this budget is obviously, from our point of view—and it is our point of view. It is not their point of view. I don't argue with the fact that they believe they have put together a great budget. I mean in their mind, in the mind of the person who believes we should dramatically expand the size of government, dramatically increase taxes on the American people, this is a heck of a good budget. I don't argue with that. But from our perspective, when we think Americans should keep as much of their tax dollars as we can leave them with, because it is their money and they will spend it better, and they are more efficient using it than we are—we should keep a low capital gains rate; we shouldn't penalize seniors who have dividend income as their main source of income—from our perspective, this budget has the wrong priorities because it raises the taxes on capital gains and raises the taxes on dividends significantly.

In addition, it has the wrong priorities because it expands spending significantly—$500 billion in new spending and entitlements. Remember: Probably the biggest threat we face as a nation—fiscal threat—in fact, the biggest threat after, in my opinion, the threat of Islamic fundamentalism and the terrorists using a weapon of mass destruction against us—is the impending economic meltdown of this country as a result of the burden that our generation, the baby boom generation, is putting on the next generation through the entitlement accounts. There is $66 trillion of unfunded liability, $66 trillion—a huge number. Nobody knows because it is hard to define what $1 trillion is. But if you take all the taxes paid since the beginning of this Republic—I think you are talking about something like $37 trillion—and if you take all of the net worth of the American people—all their cars, all their homes, all their stock—and add it together, you come up with something like $45 trillion.

So we have a liability on our books which involves three programs—Social Security, Medicare, and Medicaid—that exceeds the net worth of the Nation and exceeds the amount of taxes paid in this Nation since we began as a nation. That is a huge problem for us. You have to start to address it.

One of the good things the President's budget did was suggest a couple of ways to address it. In fact, he sent up a proposal which would take about 20 percent of this problem as it relates to Medicare, which is the biggest part of the $66 trillion, and would have made Medicare 20 percent less insolvent—which is a big number, by the way. That was a big step. The proposals he sent us had no impact on the vast majority of beneficiaries—no impact at all. He suggested that wealthy Americans such as Warren Buffett, for example, qualify for the Part D premium under Medicare, under the Medicare drug program, or some other extraordinarily wealthy person, should pay a fair share—not all, but should pay a fair share of the cost of the premium of their drug program. That was a reasonable suggestion. What happened to it? It was rejected by the other side of the aisle.

The President suggested that we use IT and disclosure of performance at different levels that medicine integrates with the patient so people could make more intelligent purchasing decisions, so employers and insurers could make more intelligent decisions but, more importantly, Medicare could. What happened to that idea? It was rejected by the other side of the aisle.

The President suggested we should do something about the runaway cost of malpractice, about the trial lawyers essentially running up extraordinary costs on health care providers, especially doctors, and that we should do something to limit that. It is a reasonable suggestion rejected by the other side of the aisle.

How much entitlement saving is in this bill? Zero. Zero entitlement saving is in this bill. Here we are facing probably the most significant fiscal issue of our time and we do nothing about it in this budget. In fact, under the present law, we as a Congress are required by something called the Medicare drug trigger to adjust Medicare spending to bring it down under what is known as a trigger level. It is a technical point, but Medicare Part D premium isn't supposed to exceed 45 percent from the general fund. And we have now gotten a directive from the trustees in the Medicare trust fund to act, and it would cost not a large amount of money in the context of this entire budget—$1.3 trillion.

Mr. CONRAD. Billion.

Mr. GREGG. Billion, thank you. Billion. I got into my trillions. It would cost $1.3 billion to correct this. That proposal is nowhere in this budget; nowhere in this budget. It is hard to believe we couldn't even do $1.3 billion when we have been directed to do it, when we passed the law. It was our law that said we would do this if this problem occurred. Yet the courage isn't there to do even that in the area of entitlements, which is truly irresponsible, an act of malfeasance by the Congress. So entitlement spending remains unaddressed.

Interestingly enough, I heard Senator OBAMA on the stump a couple of days ago—maybe it was a week ago—talking about how he was never going to allow anything to happen to the Social Security recipient or the Social Security trust fund. It is that type of language which absolutely guarantees our children are going to get a bill here that they can't afford, that our generation, the largest in the history of the

country, which will double the number of retirees, is going to basically put a weight on our children and our children's children that will make their lives less enjoyable than ours because they will not be able to afford the dollars it costs to support our generation and still be able to buy their homes, send their children to college, and buy their cars because of the tax burden generated by the entitlement costs.

So that irresponsibility is permeated in this budget when it does nothing on the issue of entitlements. Speaking of Senator OBAMA, I am entertained by the fact that this budget, which will have three-fourths of its life under the next President, must assume that the next President will not be Senator OBAMA because he has proposed $300 billion of new spending—$300 billion—in the first year of his Presidency. He proposed 187 new programs. We can only score 143 of them because the other ones were not specific enough. But if you score 143 of them, they add up to $300 billion of new spending just in the first year.

As I said earlier, Senator OBAMA said he is going to pay for this by taxing the wealthy. That is what he said. But if you look at this budget, they have already spent that money. This budget already assumes the wealthy are going to be taxed. The $1.2 trillion tax increase in the budget assumes the top rate in the 2010, 2011, and 2012 period jumps back to President Clinton's level of 39.5 percent. So the budget, which already is projecting deficits in the $400 billion range, already presumes inside of it, as it is presented here, a jump in the top marginal rate, which is the rate on the richest Americans. That money is already spent. It was spent when the other side of the aisle decided to increase entitlement spending by $500 billion under this budget and increase discretionary spending by close to $300 billion under this budget. So where is he going to find the money to pay for his $300 billion of new programs? I don't know. But one thing is pretty obvious: We are going back to the future with enthusiasm. Yes, we can raise taxes and, yes, we can raise spending; that will become the theme not only of this budget but future budgets should we have a Democratic President and a Democratic Congress.

This budget really doesn't do much to address the issues the American people need to have addressed. Those issues involve, No. 1, doing something on the issue of entitlements; No. 2, maintaining a tax law which creates productivity, which energizes entrepreneurship and says to small business people, go out and create jobs; No. 3, disciplines our fiscal house by containing discretionary spending under a trillion dollars.

Those are not really that dramatic or that heavy a lift to undertake. There is no reason we could not keep spending under a trillion dollars on the discretionary side, no reason we could not have taken the small steps, like asking wealthy people to pay a bigger part of—or any part of—their Part D drug premium. There is no reason this budget could not have contained within it some initiatives which would have controlled discretionary spending and would have continued to promote the tax policy we have seen for the last 3 years, which has generated a massive increase in revenues for the Federal Government, especially from capital gains.

Another course that was chosen—the course that is circular—goes back to the way we did things in the past when we had the last Democratic Congress. That course said you have to raise taxes because the American people don't know how to spend their own money, so we have to do it for them. It is a course that says the Government should always grow, and grow fast. There is nothing in the Government that should be reduced. It is a course that says we should add to the Federal debt at a radical rate. It is a course that says we should ignore real problems—the biggest problem we have, which is entitlement spending.

I want to put in one footnote because I think it sort of encapsulates the whole discussion about discretionary spending. The Senator from North Dakota got up and said we had to keep the COPS Program, which was a great program, and put cops on the street. There isn't one program that their budget proposes that we eliminate on the discretionary side that I found. Everything either gets increased or is maintained.

The COPS Program is uniquely appropriate to be eliminated. Why? Don't listen to me. Listen to President Clinton. He created the COPS Program, and he created it with this caveat: This will be a 3-year program.

That is what President Clinton said—that when we get to 100,000 police officers on the street as a result of this program, this program will be terminated. That was the program that was proposed. Not only did we get the 100,000 police officers on the street—because I chaired the committee of jurisdiction at that time—we put 110,000 new police officers on the street using Federal funds. Then, following on the suggestion of what the original program was, and following the edict of President Clinton, we started to phase out that program. It should have been completely phased out. That was 8 or 9 years ago that we hit what the number was under this Federal program. The program is still here. It is a classic example of how programs work. Once they are in place, the interest groups that support them demand that they stay in place forever. Obviously, we all believe police officers do a great job. We admire them, respect them, and they protect us. But this program fulfilled its obligation. It did what it said it would do, and it worked. It should have been terminated, just like President Clinton suggested.

Now, the other side of the aisle, 8 to 9 years after that event, is still claiming this program has to be kept and grown. That is the difference between our parties. We think when somebody puts in a program that says it will last 3 years, with certain goals, and those goals are met and the 3 years are over, the program should be ended and the American taxpayer should get to keep the money from ending that program.

The other side of the aisle thinks we should continue the program forever, grow it, and take money out of the American taxpayers' pockets to pay for something on which we have already fulfilled the responsibility. That is the difference. It is a fundamental difference between our parties. They are in the majority. They have the right to write a budget however they want it. They have done that. It is a budget that has the world's largest tax increase, has significant increases in spending, significant increases in entitlement spending, crosses the trillion-dollar line on the discretionary side, does nothing about containing entitlements, and plays games with enforcement mechanisms relative to the budget. We would not have written this budget. That is why we are opposed to it.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Madam President, I am delighted that our colleague talks about our fiscal record and theirs. He talks about circling back to the policies when the Democrats controlled the White House. He is right that there is a difference. The difference is that when the Democrats last controlled the White House, we had record surpluses, and we were paying down the debt. Under the current President, we have record deficits and record debt.

I am delighted to talk about the record because here is their record: In each of the last 3 years of the Clinton administration, we had achieved a budget surplus, we were paying down the debt, and the CBO was projecting that the budget would remain in surplus for years to come. By the time the Bush administration came into power, we had achieved three consecutive years of surplus and were expecting more. But, the Bush administration squandered every dime. By the time this President is done with his responsibility, they will have run up the debt from $5.8 trillion to over $10 trillion. That is the difference in the record. Under the last Democratic administration, we ran surpluses and paid down the debt. Since then, under the Bush administration, the Nation has been beset by record deficits and record levels of debt. That is a fact.

Now, my favorite quote of my colleague on the other side—first, let me say I have respect for the ranking member. I have affection for him, and we are friends. But we have a big divide when it comes to fiscal policy. I think the policies of this administration have been reckless. I think they have dug an enormously deep hole for this country.

I think the factual record is very clear on the differences between our two parties. Under President Clinton, we achieved record surpluses, and we were paying down the debt. Under President Bush, the Nation was plunged right back into record deficits and debt. That is a fact.

But the thing I enjoy most about my colleague's speech is how similar it was to the speech he gave last year. This is what he said last year:

It includes, at a minimum, a $736 billion tax hike on American families and businesses over the next 5 years—the largest in U.S. history.

The only difference is that now he is saying this budget is the largest tax increase in the history of the world. We can now go back and look at the factual record about what our budget did that was put into place last year.

Did it increase taxes? Did it increase them by the largest in U.S. history, as he asserted last year? Well, let's look. Here is the record—not a speech but the factual record. We had Democrats controlling the House and the Senate, and the assertion last year by the Senator from the opposite party was that there would be the largest increase in the history of the United States. But what happened? Was there the largest tax increase in the history of the United States? No. Was there a tax increase? No. Was there a tax reduction? Yes. Here it is: Tax cuts enacted, $194 billion; offsets and closing loopholes, $7 billion; net tax reduction, $187 billion.

Now, that is the fact. So much for speeches and for hyperbole. Let's deal with facts.

Debt: The President's budget has $83 billion more of debt than the budget we have offered from our side. The Senator questions the Baucus amendment, which is included in this budget, that extends key middle-class tax cuts. That is included in the conference report. We provide $340 billion of tax cuts in this budget.

What is he talking about, the biggest tax increase? There is no tax increase in this budget. None. Zero. There are $340 billion of tax reductions for the middle class in this country who deserve it.

The Senator says: Why haven't they presented a bill, because they had the Baucus middle-class tax cut extension in last year? Why haven't we? Because, as the Senator well knows, those tax cuts are in place until 2010. We didn't need to take action last year. We don't need to take action this year. Those tax cuts are in place now. But in this 5-year budget, we have provided for their extension because we know they run out in 2010. But there is absolutely no need to have taken the action to extend them last year or this year because they are already in place.

Let's deal with facts. The Senator talks about BARACK OBAMA'S budget. BARACK OBAMA doesn't have a budget. BARACK OBAMA is not the President of the United States. He is asserting he has $300 billion of spending increases. I notice he didn't say anything about the McCain budget because while JOHN MCCAIN is not the President, either, he has proposed $3 trillion—not $300 billion but $3 trillion—of additional tax cuts, and we already can't pay our bills. We already are borrowing hundreds of billions from China and Japan. So apparently the McCain plan is to borrow some more money from China and Japan. That is what the party of the other side has become, a party of borrow and spend—they've spent $600 billion so far in Iraq with no end in sight, and they've borrowed so much that the debt will have increased from $5.8 trillion to $10.4 trillion by the time this President is done.

Then there is one other item to which I need to respond, and that is on the question of the pay-go. The Senator says that pay-go is meaningless. What is it? It requires that if there is new mandatory spending or new tax cuts, they must be offset. That is pay-go.

The Senator used to support pay-go. This is what he said in 2002:

The second budget discipline, which is pay-go, essentially says if you are going to add a new entitlement program or you are going to cut taxes during a period, especially of deficits, you must offset that event so that it becomes a budget-neutral event. . . . If we do not do this, if we do not put back in place caps and pay-go mechanisms, we will have no budget discipline in this Congress and, as a result, we will dramatically aggravate the deficit which, of course, impacts a lot of important issues, but especially impacts Social Security.

The Senator was right in 2002, and, in fact, his prediction came true because his party abandoned pay-go, drove up deficits, drove up debt, and we are the worse for it as a nation.

If you wonder about pay-go, here is the record. We had strong pay-go in effect between 1993 and 2000. The deficit was reduced each and every year between 1993 and 1997 and, by 1998, we actually got into surpluses, as I indicated before, which rose in each year through 2000. Then our friends on the other side took charge of the White House. They immediately weakened pay-go, and we plunged right back into deficit. We put pay-go back into effect, and we are starting to dig out of the very deep hole they have dug.

On the issue of pay-go being waived, pay-go has been raised 16 times; pay-go has been waived once—once.

The Senator says pay-go is not working. I disagree. Excluding the alternative minimum tax provisions that were put in place last year to prevent the alternative minimum tax from costing 20 million people more taxes, instead of offsetting that, the alternative minimum tax was prevented from being expanded without paying for it. If you leave out that one item, the Senate pay-go has a scorecard with a positive balance of over $1.5 billion over 11 years.

Every bill sent to the President, other than the alternative minimum tax and the stimulus, which, of course, could not be offset if it was to have a stimulative effect—that was totally bipartisan, both those were totally bipartisan—every bill sent to the President other than those two has been paid for or more than paid for.

Pay-go also has a significant deterrent effect, preventing many costly bills from being offered.

With respect to the specifics of my colleague's criticism, I will enter into the RECORD every one of the items he referenced: immigration reform, the Energy bill, mental health parity, prescription drug user-fee amendments, minimum wage, Water Resources Development Act. Every one of them is paid for. CHIP reauthorization, the farm bill—he just talked about the farm bill. The farm bill, which we will vote on sometime later today or tomorrow to overturn the President's veto, is totally pay-go compliant. It is paid for and without tax increases. Higher education, the reconciliation bill, the 2007 supplemental—every one of them in terms of the bill that actually went to the President is paid for.

When the Senator from New Hampshire calls pay-go ''swiss cheese-go,'' I call their budget approach ''easy cheese'' because they have faked fiscal responsibility around here long enough, and we are calling them on it because now we have their record, and their record is record deficits, record debt, record borrowing from abroad. That is their fiscal record. It is a fact. It can be checked. They are going to have a hard time running away from their record as we go into an election year.

Madam President, I see my colleague, Senator MURRAY, is here. How much time does the Senator wish?

Mrs. MURRAY. Ten minutes.

Mr. CONRAD. I yield her 10 minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized for 10 minutes.

Mrs. MURRAY. Madam President, I thank my colleague, the chair of the Budget Committee. He has done an amazing job putting together a budget of which we can all be very proud.

For the last 7½ years, the current administration has really mismanaged our economy and failed to make the kinds of investments that keep our country strong. We all know American families have really paid the price. We have gone from a budget surplus to a record deficit, our infrastructure is crumbling, and our economy is now nearing a recession, if we are not already there. So as we finalize this year's budget, we have to ensure that we are investing in our future and addressing our country's real priorities.

It seems that every day the news we hear gets worse about job loss, about skyrocketing gas prices, about the number of families who risk losing their homes in the mortgage crisis. And in the eighth and final budget this President has sent to us, he has really sent us off on a fiscally irresponsible path. He has given us a dishonest budget that fails to own up to the true cost

of the war, and it will require us to borrow billions of dollars from foreign governments to meet our expenses.

I want to give a few examples of how out of touch President Bush's budget is.

People today are struggling to pay for heat and rent. Yet President Bush sent us a budget that proposed to cut low-income heating assistance and housing and neighborhood revitalization programs, such as section 8 and CDBG, right when our constituents are fighting so hard to pay their mortgages to make sure they stay in their homes.

The wars in Iraq and Afghanistan are creating thousands of new veterans every single year, many of them, as we know, with severe injuries and specialized needs. But President Bush sent us a budget that cut critical programs at the VA, including medical research and State extended-care facilities.

More than 1 million people are going to lose their jobs this year. What did President Bush do in his budget proposal? He cut $484 million from critical workforce training programs.

Health care continues to be out of reach for millions of Americans who don't have insurance or, in some cases, don't have access to doctors or nurses. Yet the President sent us a budget that freezes Medicare reimbursement levels for our hospitals and hospices, for our ambulance services, long-term care facilities, and he decimated funding for training programs for our health care professionals.

It is past time that this administration joined with the majority in Congress and the majority of people in this country to make America's families, the working families, our first priority.

The budget conference resolution makes responsible choices that will help get our economy rolling again and invest in our country's real priorities. With this budget which will be before the Senate shortly, Democrats are investing in programs that help families meet expenses and get ahead, things such as schools and health care and job training. Our budget makes up for President Bush's misguided proposals to flat line funding for education and rob students of the opportunities they need to get ahead.

We are restoring the vital funding the President has slashed from our Nation's job training programs to help youth and adult and dislocated workers get the skills they need so they can succeed in our global economy.

We are investing in health care by adding much needed funding for our health professions, the National Health Service Corps, our community health centers, and other programs that help to ensure Americans can see a doctor when they are sick.

We are ensuring our communities at home are safe by funding the homeland security grants and restoring cuts to local law enforcement programs.

Our budget fully funds the port security grants which the President proposed cutting in half. And it restores his dangerous proposal to cut almost $750 million from State homeland security programs and grants. Those are programs that help pay for security improvements, training, and equipment—all of the items that our first responders need so they can prepare for the worst in our communities at home.

Democrats are making critical investments in infrastructure in this budget which will help boost spending and create jobs, while making much needed repairs to our roads and our bridges. We are also preventing a projected shortfall in the highway trust fund so we can keep our commitment to States and communities and ensure that our roads, bridges, and highways are safe and up to date.

This budget ensures we are not turning our backs on the Hanford Nuclear Reservation in my home State or the many other States in our nuclear complex where workers sacrificed to help make nuclear material during the Cold War. Hanford and other sites like it are still home to millions of gallons of nuclear waste and other dangerous material, and the Federal Government has to live up to its promise to clean them up. The longer we stretch it out, the more the cleanup is going to cost over the long run. The budget that will be before us reverses the trend of failing to invest, and it is a big step toward getting us back on schedule.

Finally, in this budget, we are doing the right thing for our veterans. The number of veterans is increasing every day, and the list of needed repairs and expanded facilities in the VA system is stacking up as well. But what does the administration send us? A budget that proposes new fees and increased copays that will essentially discourage millions of veterans from even accessing the VA. In his budget, the President also underfunded VA medical care, VA medical and prosthetic research, and he cut funding for major and minor construction by nearly 50 percent.

I have made it clear over the last several years that I believe denying access or discouraging veterans from seeking care because of their income is morally wrong, and I believe it will also make it harder in the long run for us to maintain a strong voluntary military. Democrats are making sure that we keep our promise to the men and women who have served us so bravely.

I thank our chairman, Senator CONRAD, for his leadership and his tremendously hard work to get us to this point. I urge all of our colleagues to support this budget. This budget sets priorities and gives us critical direction as we begin the appropriations process. The American people desperately want us to take the steps that have been laid out in this budget. Our budget creates jobs, it rebuilds our roads and our bridges, it cares for our veterans, it invests in education, it helps our families meet their basic needs, and it gets us to surplus by 2012. After years of this President's unrealistic policies, Democrats with this budget are making sure that working families are again priority No. 1.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, I thank the Senator from Washington, who is an extraordinarily able member of the Budget Committee, someone upon who I rely for much of the very hard work of the committee. She is simply outstanding, and I thank her for her leadership and most of all for her friendship.

Madam President, I ask unanimous consent that the gentleman from Iowa, Senator GRASSLEY, be given 30 minutes on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Iowa is recognized for 30 minutes.

Mr. GRASSLEY. I thank the Senator for providing time for me.

For 6 years, and those would be the years 2001 and 2003 through 2006, the budget resolutions provided the necessary resources that allowed the Finance Committee, the tax-writing committee, usually in a bipartisan manner, to realistically address the demands of tax policy. I am disappointed to say that this year, like last year, is different.

The people spoke in November of 2006, and for this year—and last year—the Democrats are in the majority and in control of the congressional budget process. As ranking Republican on the Finance Committee, a committee I used to chair, like last year, I was not consulted at any point by our distinguished chairman on this budget resolution. Unfortunately, after reviewing the resolution conference agreement, it is clear it does not realistically address the tax policy needs the Finance Committee is very concerned about and has the responsibility to do something about.

I am going to take a look at what the budget means to the American taxpayers in two timeframes, from now until January 20, 2009, and then for the period of time long term. Short term first; long term, the period of time after the new President is sworn in starting January 20, 2009.

Let's take a look, then, at what this budget says to the American taxpayer near term. For the hard-working American taxpayer, the news is not all bad. I complimented the distinguished chairman for preserving the ''unoffset'' AMT patch for this year in the budget. He had to concede a new point of order to the House, but my guess is there will be 60 votes to waive it when the AMT patch is brought up. The problem that 26 million families face is uncertainty of the action on the AMT patch this very year. In other words, right now.

I have a chart here I wish to put up. It is the estimated tax voucher, a form that people fill out for making quarterly payments. Many of the 26 million families facing the AMT technically should be adjusting their withholding

upward and filing the 1040–ES form with a check for a portion of the AMT they already owe because Congress hasn't acted yet to prevent the AMT from expanding to almost 25 million more Americans, which I don't think will happen, because I think we will take care of it in time, but who knows. But right now, those filing quarterly should have made this payment, filled this form out, on April 15. That is when the first quarter's estimated tax is due, and that is what the tax law says right now.

This is all a problem because the House Democratic leadership won't send us an ''unoffset'' AMT patch. Now, let's make it clear what the Constitution says, so people don't think I am only blaming the House of Representatives. The Constitution says tax laws must start in the House of Representatives. So why then won't the House Democratic leadership send us an ''unoffset'' AMT patch bill so we can get it to the President? Here is the problem. The House Blue Dog Democrats will not support an ''unoffset'' AMT patch bill.

Now, why wouldn't the Blue Dogs do that? And I am not accusing them, I am stating what their position is. The answer is the Blue Dogs are a growing presence in the House of Representatives. Most of the seats that shifted from the Republican column to the Democratic column in the 2006 election are occupied by Blue Dogs.

The Democratic-leaning Washington punditry and the Democratic leadership have gloated recently about the trifecta that has happened because of the House special congressional elections this year. By trifecta, I am referring to the three House races that were switched from Republicans to Democrats this year, not something this Republican is proud about. All three of those Members have joined or intend to join the Blue Dog coalition in the other body.

Lord knows we have heard a lot of gloating from the other side about these three new so-called conservative Democrats. We have also heard from a lot of Republicans crying in their favorite beverage about this outcome.

The Blue Dogs have had a heavy hand in this budget and are the leading obstacle to getting the ''unoffset'' AMT patch bill done and to the Senate so we can send it to the House. So if the Blue Dogs are representing themselves as strict agents of fiscal responsibility, it is a fair question for every one of us to ask about their definition of fiscal responsibility.

Let's take a look at it. I have another chart here. This chart contains a depiction of the most famous Blue Dog. Here he is, the most famous Blue Dog, Huckleberry Hound, showing us the definition of fiscal responsibility from his Blue Dog perspective. Now, here we have Huckleberry Hound barking ''fiscal responsibility.'' American taxpayers should beware. Huckleberry Hound's bite happens to be higher taxes. With respect to spending cuts, all we get is a whimper. No spending cuts.

Maybe I am being too tough on Huckleberry Hound and his Blue Dog friends, but I have yet to see the empowered Blue Dogs propose spending cuts for deficit reduction. All I have seen is higher and higher taxes. Like their liberal brethren, Blue Dog Democrats only look to the American taxpayers to fund new spending. We are seeing it once again on the war supplemental bill. Why couldn't they find a spending cut here or there to pay for the popular veterans' benefit package? Why always go to tax increases?

The reason I point this out is this group of House Members is holding up our ability to pass an AMT patch bill in a form that can pass the Senate and in a form that can be signed by the President. The Blue Dogs' bark of fiscal responsibility is stalling relief for 26 million AMT families. The Blue Dogs insist on getting their bite of $62 billion in new taxes as a condition to sparing these 26 million families from the AMT.

I agree with the Blue Dogs on the importance of fiscal responsibility. And as I have stepped up to the plate over the years with plenty of revenue raisers, well, if you have any questions, ask the people downtown in what we call the K Street crowd who think of defending all these tax loopholes we are trying to close. But the Blue Dogs whimper when it comes to spending cuts. They only look at the taxpayers for fiscal responsibility. This obsession with raising taxes, most pointedly advanced by Blue Dogs, is a theme that runs through this budget.

I am going to turn now to the short-term tax legislative agenda and examine how the budget squares with what we need to do.

As a farmer, I would like to think we country folks can teach city folks a lesson or two. The first chart I am going to put up here involves the method a lot of us farmers use to get our water. You will see a well in this chart. You can see it as a long well. There is a little bit of water way down there at the bottom of the well, but most of the well is dry.

Now, what we are told by those who drew up the budget is that the tax-writing committees will somehow plain find the money. Well, find the money. You have to have some sort of consensus to do that, because in the Senate, to get anything done, you have to have some bipartisanship. We will find the money, they say, to pay for this time-sensitive tax business we have to deal with. Now, these are not just abstract things; these are pending matters. They are pieces of legislation on both sides that we say we want to get done before this session ends.

The offset well here shows about $58 billion that is known, that is identified, and that is scored revenue raisers that the Senate Democratic caucus supports. I used this chart several months ago trying to make similar points. I have updated it to assume that the farm bill will become law, and I think that is going to happen within 48 hours.

As a rule of thumb, the Finance Committee tax staff, in a bipartisan way, has developed about $1 billion per month in new offsets. That figure of $1 billion per month is in line with our historical average, the success we have had of gleaning money by closing loopholes. How reliable is that average, and can we count on it?

As a farmer, I know something about the predictability of rainwater. You hope you will get rain and that will give you a decent level of well water. As a former chairman and now ranking member of the Finance Committee, I know something about revenue raisers. I have been there and done that. When I was chairman, I aggressively led efforts to identify and enacted sensible revenue raisers aimed at closing the tax gap and shutting down tax shelters. And as ranking member, I continue to look for ways to shut off unintended tax benefits. So I consider myself to be a credible authority on what is realistic when it comes to revenue raisers.

From 2001 through 2006, Congress enacted over 100 offsets, with combined revenue scores of $1.7 billion over 1 year, $51½ billion over 5 years, and $157.9 billion over 10 years. So if you look at recent history, we can realistically figure the tax staff will find about $1 billion a month. Let taxpayers who are trying to avoid honestly paying taxes beware of that.

Right now, however, all we can find that is specified, that is drafted and is scored, is that $58 billion. The revenue-raising well shows about $58 billion in available, defined, and scored offsets.

Defenders of the resolution before the Senate will say a virtual cornucopia of revenue raisers is there from the tax gap and from shutting down offshore tax scams. I take a backseat to no one on reducing the tax gap or shutting down offshore tax shelters. I have scars to show from my efforts over the years. But the defined as well as the scored tax gap proposals are included.

We have that here already.

Likewise, we have a proposal targeted at tax haven countries and other off-shore activities on this chart. The well has, then, about $58 billion of offset water. This budget anticipates Congress will be thirsty for this limited group of offsets. On the thirst or demand side, you will see the bucket will be busy bringing up that water. On the demand side, I have talked about next year's AMT patch—there is $74 billion for the patch for next year. There is $16 billion for tax provisions that ran out at the start of this year. That estimate, by the way, is probably low. Then there is $29 billion for next year's extenders, and there is $15 billion for the energy tax package we want to pass.

If you add up those things—and we have to add the $5 billion we have there

for the Federal Aviation Administration reauthorization bill, if we get to it—and I hope we get to it. So the pending, the time-sensitive tax business totals what? It is $139 billion that we have to bring up in that bucket.

You see $59 billion of real money is available. That is quite a difference. We are short about $80 billion. I have not even included the demands from the myriad of reserve funds that are mentioned in this resolution. Since we know from almost a decade of fiscal history that the Democratic leadership cannot propose spending cuts, we know the new reserve funding spending will be paid for with tax increases. It has been shown to be the case since the Democrats took power in January 2007.

As I said earlier, the Blue Dogs in the House of Representatives are leading proponents of this tax and this spending practice. You can see it doesn't add up. The budget plan for tax legislative business is very much out of balance. It is out of balance by at least $80 billion. Even if the Senate were to adopt some of the new tax hikes that the House has come up with, we would be substantially still out of balance.

I might add I have included in the Senate offset accounting proposals the House has rejected. So I think on this chart is a fairly conservative estimate.

What is going to happen? How do we then bridge that $80 billion gap? Either the tax relief is not going to happen or we will add that to the deficit. That is a frightening proposition. I had hoped that the shortfall would be confined to the short term, but that is not the case. Over the long term—and I said I had a short-term view and a long-term view of this budget resolution. So what does it look like after January 20, 2009? It gets much worse.

Let's take a look at the budget's assumptions about revenues over that long term. Over the 5-year budget window going out to the year 2012, keeping existing policy in place will have a revenue effect of over $1.2 trillion. This includes AMT relief, extension of bipartisan 2001 and 2003 tax relief, and extending other broadly supported expiring provisions.

In the aggregate, this budget appears to provide $340 billion in new resources for extending these policies over the 5-year window. Let's look further, and you will find a complicated obstacle course to making any of this tax relief happen. To me, the conditional tax relief language is almost bait and switch. Senator GREGG has described in great detail how this mechanism would work. To me, it is as convoluted as a Rube Goldberg type of invention. So I have another chart.

The chart shows a Rube Goldberg potato peeler invention. If you want to peel potatoes, I would tell Rube Goldberg to use a simple potato peeler. If you really mean to deliver tax relief, I would tell the majority, the Democratic majority, write it into the resolution. Make it very clear. Don't use a Rube Goldberg mechanism.

Suffice it to say, the supposed $340 billion in tax relief targeted to 2011 and beyond assumes it will not be used for future spending. Does anybody really believe this new majority will not spend future tax relief if given the chance? If your answer is yes, then I have a few bridges in Iowa that I will sell you.

Under this budget, $1.3 trillion in expiring entitlement spending is assumed to continue. It is right in the CBO outlook. So, Mr. and Mrs. Taxpayers, that is right, your taxes will go up by almost $1.2 trillion unless Congress raises taxes to offset the revenue loss.

When it comes to expiring entitlement spending, it is quite a different story. There is no requirement in this resolution for Congress to do any heavy lifting. This emphasis upon higher taxes and higher spending is reinforced by the pay-as-you-go rules, or we say pay-go around here. That is this budget's notion of fiscal responsibility—unrestrained spending is good, higher taxes are good.

Over the 5 years of this budget resolution, it assumes a dramatic tax increase—at least $1.2 trillion. In 2011 the bipartisan tax relief plan will expire. Some folks will call these provisions the Bush tax cuts. I suppose that term, ''Bush tax cuts,'' arises from polling by campaign outfits on the other side. It is true President Bush signed both bills, but the bipartisan compromises occurred in the Senate Finance Committee. In 2011 President Bush will have been gone from office for a couple of years. You can call this package of tax relief for virtually every American the Bush tax cuts, but for the taxpayers, if Congress does not intervene, it will be a tax increase and it will be the biggest tax increase in the history of the country and it is all going to happen without a vote of the Congress.

So I would like to run through a couple of examples. The first would be a family of four. There is the husband, his wife, and their two children. This family makes $50,000 in income. That is right about the national median household income today. For example, the Census Bureau stated that for 2006 the national median household income was $48,200. Under the Democratic leadership's budget this family will face a tax increase of $2,300 per year. That is a loss in their paycheck of about $200 per month. It is a hit on their yearly budget of $2,300. Where I come from, that is real money.

I will give another example, this one a single mom, two children. She earns $30,000 a year. In 2011, under this budget, she and her family run straight into a brick wall—that is a brick wall of $1,100-per-year taxes. That is $100 a month out of the family's budget.

Some on the other side will say they only excluded top-rate taxpayers or other high-income folks from tax relief. I am going to tell you don't believe it. We have tax bills of the previous several decades to prove it, that you don't tax just the wealthy when you raise taxes. The facts are otherwise. Low-income folks, including millions of seniors, pay no tax on their dividends or their capital gains income. If this budget stands, even with the Baucus amendment, millions of these low-income taxpayers, especially seniors, will pay a 10-percent rate on capital gains and could pay as high as a 15-percent rate on dividends.

Nationally, over 24 million families and individuals reported dividend income. Let's say that again—24 million Americans reported dividend income—because you think it is just a few hundred thousand of very wealthy people—24 million families. In Iowa, for instance, we have 299,000 families and individuals claiming dividend income on their income tax returns. There are not 299,000 millionaire families and individuals in Iowa. Nationally, we are talking about over 9 million families and individuals reporting capital gains income. In Iowa we are talking about 127,000 families and individuals.

There are many marginal rates other than the top rate that would rise if this budget stands, even with the amendment of Senator BAUCUS. The 25-percent rate—which for 2007 starts at $31,850 for singles and $63,700 for married couples—would rise by 3 percent, to 28 percent. The 28-percent rate would go up 3 percentage points to 31 percent. The 33-percent rate would go up 3 percentage points to 36 percent. The top rate would go up from its current 35 percent level to 39.6 percent.

To sum up, even with the Baucus amendment added to this budget, there would be marginal rate increases on millions of taxpayers, and not just millionaires. Those marginal rate increases would reach taxpayers with taxable incomes as low as $31,850 for singles and as low as $63,700 for married couples.

What I just described is accurate only if the Democratic leadership intends to follow the letter and the spirit of the Baucus amendment. If you look at last year's track record, the House neutered the effect of the amendment in the conference committee. They created a Rube Goldberg type of mechanism to impede the amendment.

As I pointed out a few minutes ago, that mechanism is right back again. Of course, after the budget conference report was agreed to, all talk and action around the amendment then somehow ceased.

I wouldn't put much stock on the followthrough on the Baucus amendment. The distinguished chairman and friend of mine points out that since last year's budget, we passed tax relief of $50 billion for last year's AMT patch. He will also point to the stimulus package passed earlier this year. The senior Senator from North Dakota is correct that those tax relief packages did pass. He used the assertion to counter the assertion on our side that there is a $1.2 trillion tax increase in the budget.

The distinguished chairman omits a critical fact in his assertion, and that

is the ''unoffset'' AMT patch passed only because Senate Republicans and the administration insisted that they would not use the AMT problem as a money machine for current and future spending. If the Democratic caucus had prevailed, the AMT patch would have been offset.

Likewise, on the stimulus bill, there was bipartisan consensus that economic stimulus should not be a tax increase.

When you step back from the differences across the aisle on this budget, you probably will not be surprised to find some differences among Presidential candidates. Generally, the candidates on the other side have proposed to take heavily from the taxpayers under the guise of fiscal responsibility. This is true when they are talking about ending the bipartisan tax relief plans of 2001 and 2003. It is true when they are talking about the same loophole closers for a myriad number of expansions of existing entitlements and creating new ones. Nowhere is there discussion of reining in spending.

So the tax side of the Federal ledger is the only route to fiscal responsibility from the perspective of Presidential candidates on the other side of the aisle.

I wanted to give you one telling example. One Democratic candidate has proposed to repeal the bipartisan tax relief plans for taxpayers earning above $250,000. This proposal raises $226 billion over 5 years and 10 years. A key fact is that the source of that revenue peters out over the next few years because under current tax law, the tax relief sunsets at the end of 2010.

Madam President, I ask unanimous consent for an additional 4 minutes.

Mr. CONRAD. I say to the Senator through the Chair that we would be happy to accede to the request if the Senator could say something nice about the chairman of the committee.

Mr. GRASSLEY. Besides the work of Senator HARKIN, we have an outstanding farm bill because of the hard work of the Senator from North Dakota.

Mr. CONRAD. What a kind and gracious thing to say. We would be happy to agree to the request. The Senator would like 4 additional minutes.

Mr. GRASSLEY. I think that is it.

Mr. CONRAD. Why don't we give the Senator 5. You can give back any time.

Mr. GRASSLEY. Sure.

Mr. CONRAD. May I interrupt the Senator and ask unanimous consent when the Senator has concluded, we go to Senator WYDEN?

How much time would the Senator speak?

Mr. WYDEN. I think it would range up to 10 minutes.

Mr. CONRAD. Are we confident that 10 is sufficient?

Mr. WYDEN. Yes.

Mr. CONRAD. Then I ask unanimous consent to go to Senator WYDEN for 10 minutes after Senator GRASSLEY.

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

Mr. GRASSLEY. Well, I was talking about Presidential candidates and what their budget plans might do.

Like the Democratic leadership's budget, the candidates on the other side oversubscribe the revenue sources from proposals that are popular with the Democratic base. The deficiency can only be made up in three ways: One, other undefined sources of revenue would need to be tapped. The taxpayers should rightly be worried about that avenue. Two, the proposed spending plan would need to be abandoned or curtailed. There is not much history on the Democratic side of this avenue being taken. Three, add to the deficit for the cost of the new programs. Unfortunately, this avenue has been taken too many times.

We will hear a lot of criticism of the Republican candidate, Senator MCCAIN, from those on the other side. They will argue, like the President's budget, a continuation of current-law levels of taxation somehow costs the Federal Government too much revenue, just like all the money every worker makes belongs to the Government and we let the taxpayers keep a little bit of it. They will argue that the spending increases they propose are more important than the restrained levels of the President's budget, and they will argue that despite the record tax hikes in their budget, entitlement reform is a matter for another day. In fact, Senator MCCAIN's plan intends to keep the revenue take where it is as a share of the economy. You see revenue averages of about 18.3 percent of the economy. That is 18.3 of the GDP.

The state of the economy affects revenues more than anything else. There are dips when we have been in recession and peaks when growth is high. Our side cares about keeping the revenue line at a reasonable level, about 18 to 19 percent.

We do not see the merits of an imperative behind a growing role for Government in the economy. The other side disagrees. That is their philosophy, they are entitled to it. I think they are wrong.

They impliedly or explicitly reject our premise that the size of Government needs to be kept in check. That view has been best expressed in an editorial of October 22, 2007, in the New York Times. The lead paragraph says it best:

> President Bush considers himself a champion tax cutter, but all the leading Republican presidential candidates are eager to outdo him. Their zeal is misguided. This country's meager tax take puts its economic prospects at risk and leaves the Government ill equipped to face the challenges from globalization.

But the bottom line is the New York Times directly states the view behind this budget and the position of the Democratic candidates. From this perspective, the historical level of taxation is not somehow appropriate as a measure for the next decade.

The New York Times implies that the Federal Government must grow as a percentage of our economy by at least 5 to 8 points. That is more than ever in the history of the country. If we were to follow the path suggested by the Times, the Government's share of our economy would grow by one-third. One-third. One-third is a great big increase in Government. The Democratic leadership budget takes some big steps on that path. So do the campaign proposals of the Democratic candidates. They go in the same direction.

Our Republican conference takes a different view. America is a leading market economy. American prosperity and economic strength, in our view, is derived from a vigorous private sector that affords all Americans the opportunity to work hard, to save, and to invest more of their money.

A growing economy is the best policy objective. It makes fiscal sense as well. Fiscal history shows that despite criticism to the contrary, the bipartisan tax relief plan drove revenues back up after the economic shocks we suffered earlier this decade. I am referring to the stock market bubble, corporate scandals, and the 9/11 terror attacks. Revenues bounced back when the economy bounced back. The revenue outperformed CBO's projections by a significant extent.

I yield the floor.

The PRESIDING OFFICER (Mr. PRYOR). Under the previous order, the Senator from Oregon is to be recognized for 10 minutes.

SENATOR KENNEDY

Mr. WYDEN. Mr. President, the television news folks spent much of yesterday looking at brain scans and pretty much counting out our friend TED KENNEDY. But I will tell you today, I think the TV crowd is missing a much bigger story; that is, TED is the most determined person I have met, and anybody who counts TED KENNEDY out needs to have their head examined.

Now, earlier today, Senator KENNEDY's son, Ted junior, gave me a call. Ted junior is a wonderful guy. We talked about all of the instances where his family has tackled illness, defeated cancer. Ted junior told me earlier today that his dad is mobilizing, he is building a battle plan against cancer, he is talking to the experts, he is digging out the facts the way we know TED KENNEDY does unlike anybody else here in the Senate. And certainly Senator KENNEDY is not sugarcoating anything.

But I think it is also important to note that he sure is looking ahead. Senator KENNEDY is especially looking forward to the passion of his life in public service, fixing health care and universal health coverage, coverage for all of our people.

TED has always been America's go-to guy on health care. He has always been our conscience, our leader on the premier domestic issue of our time. TED is always telling me—he is telling a lot of

the Senators—that this time Democrats and Republicans here in the Senate can get it done, that after 60 years of bickering and quarreling partisanship, at this time, it can get done. TED says there is no reason the richest and strongest country on Earth cannot figure this out and cannot figure out a way to get good health care to all of our people. I especially like the way TED points out that we have thousands and thousands of wonderful doctors and hospitals and health care providers. They are ready and waiting for the political leadership to step up and tackle this issue.

Now, nobody has stepped up on health care the way TED KENNEDY has. Nobody has put the effort into looking ahead and what is it going to take to fix the system, to build the coalitions—business, labor, seniors, doctors, health care providers—all the people who are going to be necessary to fix health care.

We should be very grateful that TED KENNEDY has always stepped up on fixing American health care, particularly the challenge of our time, universal coverage. And I for one am very glad this afternoon that Senator KENNEDY is looking forward to being back at his post, as we go forward, Democrats and Republicans, and tackle this issue, this issue so important to our people and our families. That is what Senator KENNEDY and his public service is all about. I want to report this afternoon, he is sure looking ahead to the big challenges we face. And we want him back here with us as soon as he can.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ALLARD. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ALLARD. Mr. President, my understanding is we are in morning business, talking about the budget.

The PRESIDING OFFICER. The Senator is correct. Senators are allowed to speak for up to 10 minutes.

THE BUDGET

Mr. ALLARD. Mr. President, last year we were obligated to accept the assurances from the majority that under this new regime, pay-go would be respected, spending would be curbed, the entitlement crisis would be addressed, and the debt would be attacked. Undoubtedly, that was an ambitious agenda. Obviously, it didn't happen. We now have results, not predictions. When all was said and done last year, there was an $83 billion increase in discretionary spending. There was $143 billion in pay-go violations. Pay-go violations are provisions we put in the budget that help assure we get moving toward deficit reduction and eventually balancing the budget and reducing debt. We didn't close the tax gap. We added to the national debt. The budget was used to add spending, not reduce it.

Previous to that year, we had always had strong budget provisions that forced budget discipline that actually held down spending. We did nothing for entitlement reform, and we assumed tax increases.

When we began consideration of the fiscal 2009 budget resolution, I hoped everyone was aware of what was promised last year and what transpired. I hope they will use that knowledge with what we see today to understand that what we have now, with two budgets written, soon to be approved, is a pattern, a distinct pattern. That pattern is fiscally damaging to this country. The Democratic budget assumes a tax hike of at least $1.2 trillion which will hit 116 million Americans. This is the second year in a row that the majority party is expecting the American public to surrender more of their income to fund big government.

The pay-for assumed in this budget is simply fantasy. The tax gap, for instance, instead of being closed, was actually expanded last year. Middle-class tax relief was not passed last year either. This budget pushes annual spending over the $1 trillion mark for the first time ever. It increases spending over the President's budget by at least $210 billion over 5 years. That is without including the $79 billion we are considering on the floor this week in the supplemental. We have certainly lost control of our budget.

I want to take a moment and comment that our Budget Committee chairman must be having a little fun with us with his chart showing the difference between his budget and the President's budget. His claim that there is little difference between the two lines on his chart must be intended to be humorous, when the Y axis is over a trillion dollars. If he is teasing us, I appreciate his humor; if he is serious, I fear for us.

Another huge problem in this budget is that the biggest fiscal danger in our future, the looming entitlement crisis, is made worse. Actually, ''danger'' isn't the word. It is not a threat. It is not a danger; it is reality. It is a fact. We need to deal with it. For a second year in a row, nothing is done to address the $66 trillion entitlement crisis now on our doorstep. The budget allows entitlement spending to grow by at least $500 billion over 5 years. This is a huge avalanche of debt waiting to bury our future. But we do nothing. We are not even doing something as productive as fiddling. We are just talking year after year and perhaps wishing it will go away. Instead of reducing the debt as they promised, the majority allows gross debt to climb by $2 trillion by 2013. That debt will have to be paid back by future generations. In fact, every American child will owe an additional $27,000 or more under this budget.

We didn't see many amendments that tried to reduce the debt. I offered one to try to do that, where we looked at those programs that were rated as ineffective. I asked the Members of this body to vote with me to not have a pay increase to these ineffective programs. I thought at least we will let them maintain their funding levels for the previous year. We won't give them an increase, just as we would do with a poorly performing employee. We were not able to get the votes we needed to even put that simple policy in effect. We face a huge challenge, and we need to have a budget that provides the enforcement mechanisms that bring some fiscal sanity back to the process.

There is so much that is disappointing in this resolution that I hate to call attention to some specific points for fear of ignoring all others. But let me point out that an amendment I added in markup, which called for disclosures on debt, was removed. This shows the American public that there are things being done to their paychecks in this bill that the majority party doesn't want them to know. Now that our economy is trending in the wrong direction and when we need the benefits of a reasonable and pro-growth tax policy, we are going to depress our economic growth by adding to the debt and increasing taxes.

When we consider these tax increases, let's remember, last year we were assured we would see tax relief. The first vote we were presented on the budget last year was to budget for an alleged middle-class tax cut. This never materialized. I believe Congress and especially the Budget Committee should be committed to rigid budget discipline, not politically expedient gamesmanship. I urge a return to a tighter and more credible budget document. I plan to offer several amendments to shore up the fiscal discipline we are seeing erode.

Given that this budget assumes raised taxes, increased spending, increases in the debt, failure to address the entitlement crisis, and continuing the ongoing erosion of fiscal discipline in the Government, I feel compelled to vote against it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BUNNING. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BUNNING. Mr. President, in recent polling, close to 80 percent of the American public have told pollsters the Nation is on the wrong track. We have enormous problems to solve. The American people know it, and we should be working together to solve those problems. But this budget, written behind closed doors and in secret by a partisan group of Senators, will do

nothing to close the gulf that is keeping us from the people's business. Maybe that is by design.

Majority Leader REID recently explained that Senator CLINTON recommended to him that the Democrats should have a Senate ''war room.'' The war room is up and running today, churning out falsehoods, such as claims that Republicans have staged 71 filibusters—a claim now disputed by the nonpartisan Congressional Research Service. Who are the Democrats at war with?

Just as my good friend, General Petraeus, began to make progress reversing the insurgency in Iraq, the leadership of the Senate decided to wage a different kind of war—a war on Americans who do not share their vision of the future. The vision Democrats would promote, to the exclusion of all others, is laid out in this budget document before us. It begins with more tax enforcement. Everybody should abide by the law and pay the taxes they owe. And I support our new IRS Commissioner. But the notion that we can save anywhere near the amount proposed by Senator CONRAD is nonsense, and he should know it.

The only way to collect that revenue would be to toss out the procedural rights American taxpayers now enjoy. These rights are critical because they assure fair and evenhanded enforcement by the IRS. The Government will lose far more revenue than Senator CONRAD proposes to save if the public loses confidence in the fairness of our tax system.

His own colleagues in the House are not serious about this either. If they were, the House would not have voted on party lines to stop audits of a handful of wealthy Americans under audit by the IRS who claim to be Virgin Islands residents. What is the IRS to make of this mixed message?

The next part of the Democratic vision is predictable: more taxes. In order to achieve balance, the Democrats' budget assumes $1.2 trillion in additional revenue compared to today's baseline. Has anybody asked the 80 percent who think we are on the wrong track whether they would raise taxes on 116 million Americans?

At least 43 million American families will pay $2,300 more per year in Federal tax for the spending in this budget proposal.

Finally, and most significantly, the Democrats' plan on entitlement reform is to stay the course. Senator DOMENICI, the former chairman of the Budget Committee, told Budget conferees yesterday that he fears for our future and the future of our children and our grandchildren. Having 35 grandchildren, I share his concerns.

As any ship's captain knows, when you are heading for the rocks, it is time to change course. Staying the course is the wrong policy and the wrong message, and I am disappointed my colleagues have been unwilling to work with me and with the President to turn the ship of state in the right direction with this budget document.

Please—the American people are watching—let's do what is right and reject this partisan document and write a budget we can all be proud of.

I yield back.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CONRAD. Mr. President, while we have been in caucus discussing how the business of the Senate will be concluded over the next several days, I note that a number of my colleagues have spoken to once again assert and claim that there is a tax increase in the budget conference report before us. That is a fiction. Our friends on the other side have a very consistent speech, and they give it regardless of what is actually in the legislation. I can say that because we have a record now of their giving this same speech, because they gave the exact same speech last year, almost word for word.

Last year, as shown on this chart, this was the description of the ranking member of the Budget Committee with respect to the conference report. He said then:

> It includes, at a minimum, a $736 billion tax hike on American families and businesses over the next five years—the largest in U.S. history.

Now we are able to check the record and able to see what, in fact, has happened. Did the Democratic Congress pass the largest tax increase in history in the last year? No. Did we pass any tax increase? No. Here is what we did do: We passed $194 billion of tax reduction. That is the record. People do not have to know what specific legislation has occurred here to know what I am saying is true. All they have to do is go to their mailbox. Because tens of millions of Americans are getting a check from the U.S. Treasury, courtesy of the Congress controlled by Democrats and, in fairness, a law signed by the President—one negotiated in a completely bipartisan way to provide stimulus to the economy.

There were $7 billion of loophole closers enacted during the same period. So the net effect of the two is $187 billion of tax reduction. That is our record.

Now they are saying: Well, they have this big tax increase in this package. No, we do not. That is their assumption. It is not ours. What is provided for in this package is $340 billion of tax reduction. The Baucus amendment, passed here—it is included in the conference report—extends all the middle-class tax cuts and reforms the estate tax. Mr. President, $340 billion of tax reduction.

Now, our colleagues say: Well, they had that in last year's budget and did not pass a law to implement it. That is true. You do not need to implement it until the tax reductions that are in place expire. They do not expire until 2010. So, yes, we have provided for them in the 5-year budget. That is to be responsible to show we can balance even with those tax cuts extended. But you do not need to pass the law now because those tax cuts are in effect until 2010.

I wanted to say that to set the record straight. I know Senator KYL is here waiting to speak, so I will stop at this time so he has a chance to make his remarks.

I say to Senator KYL, for the good of the order, could you give us a rough idea how long you might speak?

Mr. KYL. Mr. President, I say to Senator CONRAD, I would say no more than 10 to 15 minutes. I will say 15, but probably I will not take that much time.

Mr. CONRAD. Would it be appropriate to have a unanimous consent agreement that the Senator have 15 minutes—or 20, and then he can yield back time if he wishes.

Mr. KYL. No. Mr. President, I am happy to ask unanimous consent to speak for 15 minutes, and then whatever time Senator CONRAD would urge after that, subject to Senator GREGG's intercession as well.

Mr. CONRAD. Might I say, then we have a couple of other Senators on our side who wish to say something and, hopefully, we will then be done on our side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Arizona.

Mr. KYL. Thank you, Mr. President.

Mr. President, let me engage in a little bit more of the sparring between the distinguished chairman of the Budget Committee and the distinguished ranking member, both of whom have had a good debate here. But I would like to add to that debate.

There is a lot of discussion here that must cause Americans watching this to wonder what on Earth is going on here when we pass a budget and that budget assumes various things, and then there are charges back and forth that you have passed a tax cut, you have not passed a tax cut, you have passed a tax increase, you have not, and so on.

Let me see if I can clarify that with what are, in fact, the real assumptions in the budget and what the Senate has and has not done.

The ranking member of the Budget Committee is correct that the budget that has passed the Senate already, and that the Senate is about to enact again, in fact, assumes tax increases which will amount to the largest tax increase in the history of the world—$1.2 trillion. Those are assumed in this budget.

Now, the chairman of the committee correctly says: Well, we have not actually passed those tax cuts. That, of course, is true. The budget is not a law, a bill that is sent to the President for

his signature so he can sign it and then it becomes law. That is not what a budget is. The budget is the document we use to frame our deliberations in the Congress for this coming year. We are supposed to stick to it. It sets an upper limit on spending. It sets the revenues that we assume will come in, and part of the revenue is based on taxes.

So what this budget does is to say we assume we are going to have taxes of $1.2 trillion more than we have today. That is what this budget assumes, and that is the largest tax increase in the history of the world.

Now, the chairman responded first by saying: Well, actually we have also included something else in this budget so you cannot say it is necessarily the biggest tax increase in the history of the world because we passed what is called the Baucus amendment, and the Baucus amendment is supposed to provide an extension of certain current tax rates that would otherwise expire in the year 2010, and if we do that, then we will not actually have that tax increase.

The answer is, that is true, were we to do that, that tax increase would not occur—at least it would not occur to that amount.

Well, we did the same thing last year. We had the Baucus amendment last year. But Congress never passed any tax relief based on the Baucus amendment. So while the Baucus amendment was in the budget, it was never implemented. The truth is, it is not going to be implemented this year either. I think everyone will acknowledge that.

So it is no answer to say the tax increases that are assumed in the budget are actually wiped off because the Baucus amendment is also a part of the amendment. The Baucus amendment is not going to be implemented this year, just as it wasn't implemented last year.

The third response the chairman of the Budget Committee made was: Well, that is true, but we actually don't have to pass the Baucus amendment until these current tax rates expire because they currently exist until the end of 2010. So we can still say we passed a tax cut, even though we haven't enacted anything, because we are going to assume existing law continues until the end of 2010.

Well, that is an odd way to argue that you have actually cut taxes. You haven't cut any taxes at all. You have done nothing but allow current rates to continue for next year and the year 2010. It is a good thing those rates are continuing; we wouldn't want them to increase. They are the Bush tax cuts that many Democrats have been very critical of. But here now Democrats are bragging about keeping them in effect for another 2 years. Well, I am glad. I am happy they are being kept in effect for another 2 years. I am worried about what is going to happen after that. The problem is this budget assumes they are going away. That is the $1.2 trillion we are speaking of.

Now, what happens to average Americans if this tax cut fails to materialize and, in fact, the tax increase actually occurs? Well, this budget conference agreement we will be voting on assumes that single people earning as little as $31,000 a year, couples making $63,000, will see their taxes go up. That is because it assumes the 25-percent bracket which kicks in around $32,000 next year for single filers, $63,000 for married couples, will go to 28 percent. Well, is this 3 percentage points a lot? Is that a big deal? Well, it is a marginal tax rate increase of 12 percent. When you add percentage points onto 25 and go to 28, that is a 12-percent increase. That means people in the 25-percent bracket—and that is people earning as little as $32,000 a year—will give the Federal Government 12 percent more of every dollar they earn over $32,000 more than they do today.

What does that mean? Well, let's look at some high school teachers in Phoenix and Tucson, AZ, my home State. In Phoenix, they make between $42,000 and $63,000 on average. So they would see a significant tax increase. How big? Well, according to calculations run by the Budget Committee, the average tax increase for this middle-income family will be more than $2,000. That may not be much to some, but it is a lot of money to the average school teacher in Phoenix. The average school teacher in Tucson makes between $38,000 and $56,000, on average. Most people think of that as middle class, not wealthy. But under this budget, they would see their taxes go up almost the same amount—$2,000.

Small businesses, which are the backbone of our economy—that is where most of our employment is occurring today. Yet this budget conference agreement raises taxes on small businesses because all income tax brackets above the 15-percent bracket will increase, and small businesses pay on those upper tax brackets. Most small businesses—in fact, the owners of small businesses report their business income on their individual income tax returns and, in fact, over 80 percent of filers in the top bracket report small business income. So you think you are going to soak the rich by increasing the top tax bracket? Well, you are increasing taxes for the small businesses of America. That is who ends up paying the increased taxes.

According to the Small Business Administration, small businesses represent 99.7 percent of all employer firms. They employ about half of all private sector employees. They generate between 60 to 80 percent of the net new jobs annually. Increasing small business taxes will hurt our economy.

How about investors? This is becoming an investor Nation, people saving for their retirement, American seniors living off their savings. In fact, every American who saves and invests rather than spending their extra earnings will see their taxes go up under this budget.

The budget allows the 15-percent capital gains rate to go to 20 percent. That is a 33-percent increase in the tax rate. The dividends tax rate will go up a whopping 164 percent. We talked about a little bit of an increase—164 percent is not little. That is on dividends. That is what seniors get when they invest their retirement savings and get a dividend from the corporation they have invested in. That goes from 15 percent to 39.6 percent.

Why are these rates important? Because keeping tax rates low on investment income gives people the incentive to put their money to work by investing it; by investing in businesses, small and large, and it gives the businesses the resources they need to grow: to hire more employees, to buy more equipment, produce more goods and services. All this, of course, helps the economy grow; it helps produce more wealth and, by the way, it helps produce more revenue for the Federal Treasury as well.

I said we have become an investor Nation. Capital gains. Now, 45 percent of all elderly taxpayers reporting capital gains had an adjusted gross income of $50,000 or less. Rich? We are going to tax the rich here? No. We may be aiming at the rich, but we are hitting the middle class. A $50,000 income is not rich. These are our senior citizens' dividends. Mr. President, 67.6 percent of all elderly taxpayers reporting dividend income had an adjusted gross income of $50,000 or less. The same thing; these are not wealthy people. They are receiving dividends based on retirement income, and they are going to receive a whopping tax increase under the assumptions of this budget. In fact, if you look at the data for all filers under $50,000, capital gains that are $50,000 of income, 35.8 percent of the filers reported capital gains income. Forty-one percent of the filers with incomes of less than $50,000 reported qualified dividend income. So we are talking about folks who are not wealthy, who are reporting not only income but dividend income and capital gains income, getting a huge increase in their taxes because the rates on dividends and capital gains are increased under the assumptions of this budget.

As I said before, there has also been talk of not only taxes going up, but the budget chairman actually said we have actually cut taxes by about $187 billion. Now, this is—well, let's say it bears examination. The tax cut the chairman is counting is simply the existence of the law today. It is existing law. It is continuing that law. As he said before, we don't have to take any action because it is already law, and it continues for 2 more years. That is right. But it is not as if we passed a law to cut taxes. We haven't. We have left them alone. That is not cutting taxes.

This year we are going to enact a 1-year fix for the AMT because we don't want people to have to pay for that. We are going to extend the so-called tax extenders for businesses, such as the

R&D tax credit. We will do those things, but it is not as if the people should be grateful to us for cutting their taxes. That is simply taking action to make sure their taxes don't go up. It is to keep them exactly where they are. That is not a tax cut; that is protecting people to retain the existing level of taxation.

Then, the stimulus checks which make up the rest of this, they are not a tax cut either. Remember, that is what the President did when he negotiated with the House of Representatives and said: Let's stimulate the economy by giving people $300 or $600 to spend, and that money is starting to be received by Americans today.

So I don't think the Congress should be bragging about a big tax cut when, in fact, all we have done is to retain existing rates, and all we are going to do is retain existing rates. When I say all we are going to do, believe me, that is important. It is important that we not let taxes increase, but that is what this budget assumes. As the ranking member of the committee pointed out, the biggest tax increase in the history of the world is assumed in this budget, and here is the problem: Right now, Congress does not have to do anything, as the chairman of the Budget Committee said. That is true. But in 2 years, we do have to do something or else taxes are going to go up. This is not a matter of stopping a big tax increase; this is a matter of all these tax rates—the marginal income tax rates, the death tax, capital gains rates, dividend rates—all these rates that are currently in law expire, and they are all increased unless we act.

That is the assumption of this budget. That is why it would be irresponsible for us to support this budget and assume Congress is not going to do the responsible thing and stop those tax rates from increasing. That would be devastating to our economy. It is the last thing you would want to do in a time of economic downturn, and it would be the last straw for American families who are already seeing too much of their income having to go to buy gasoline, to buy a quart of milk or to buy whatever else it is they need for their families with the prices having gone up. To have a tax increase on top of that would, as I said, not only be devastating for the economy, but it would be critical to American families. Ironically, if we are concerned about revenues to the Federal Government, it is also the best way to make sure the Government doesn't collect very much revenue either, because in an economic downturn, the people don't make as much, and therefore they don't pay the Government as much in taxes.

The bottom line is this is a budget that assumes a huge tax increase. It doesn't do a thing to cut taxes. It is not something we should be supportive of. I appreciate the comments of my colleague from New Hampshire earlier in pointing out the fact it is a budget Congress should reject on behalf of the American people. Go back, do this work over again, abide by the instructions to conferees that we passed on the floor of the Senate last week, and ensure that these things can occur without raising taxes, which would be the last straw for the economy we are in right now.

Mr. President, I yield the floor to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Thank you, Mr. President. I wish to, once again, thank Senator CONRAD and all the conferees who have worked so hard. I know Senator GREGG and Senator CONRAD may have a different view on the budget, but certainly I appreciate our ranking member's professionalism in working across the aisle on so many issues and working to place this budget resolution, the final resolution, in front of us.

The chairman and the conferees are presenting the American people with a budget resolution that lays out the Nation's priorities and focuses on what we ought to be doing to improve our economy. We put together a budget, and as a member of the Budget Committee, I am very proud to have played a role in putting it together. I believe it gets it right. It is about our values and our priorities. It is about investing in our future as Americans.

Today we are saying our Nation's budget, which lays out our values and priorities, will focus on the economy, on jobs, and on the future of the country. I come from the great State of Michigan, where the issue of jobs is very serious and very real. People in Michigan want us to act in a way that is going to allow people to have a good-paying job, to be able to work hard, to be able to pay the bills and pay for the outrageous gas prices and the soaring costs of health care and the cost of college and food and all the other things that are squeezing families on all sides. They want to know they have an opportunity to work. We work hard in Michigan. People across this country, middle-class families every day are working hard, and they want to know that our Federal priorities include creating opportunities for people to work, to be able to care for themselves and their families.

Let me first indicate it gets pretty old. You know, it seems the old, tired refrain comes from colleagues on the other side of the aisle. When in doubt, when you can't say anything about the economy under this White House and 6 of the last 8 years under colleagues on the other side of the aisle, when you can't say anything about soaring deficits, when you can't say anything about the inaction and unwillingness of the White House to work with us in a manner that will quickly respond to the housing crisis; when you can't say anything about any of those things, what do you say about Democrats? Well, it is the tired, old refrain of tax and spend.

I wish to remind my colleagues that this budget resolution is 1 percent higher than the President's budget resolution—1 percent higher—and it returns to a surplus. In other words, we balance the budget in 2012 and in 2013. It is a 1-percent difference. What does that mean? This is not about tax increases on low-income or middle-income families. This is not a budget that is focusing on adding costs to families. This is a budget that focuses on taking costs off families and valuing work and creating opportunity and investing in the future of our children with education, focusing on the things Americans want to see focused on. People in America are saying, what about us? We are seeing a war where we are spending $12 billion a month, unpaid for—hundreds of millions of dollars that have gone into rebuilding roads and schools in Iraq, even though they have oil revenues and have not been contributing, as they should, to rebuilding their own country. People in America are saying, what about us, our roads, schools, and jobs in America?

That is what this budget addresses. We focus on the future and on making sure American families have the confidence that we are putting them first. Last year, Congress began fixing the fiscal mess caused by the administration's 6 years of neglecting the homefront. This budget continues that effort by focusing on what is most important to American families.

We have three priorities in this budget: jobs, jobs, and jobs. I am very proud of that.

Today, we are bringing fiscal sanity back to our budget, while at the same time investing in a plan that will create good-paying American jobs, including rebuilding our Nation's aging infrastructure, our roads, bridges, and other infrastructure—in other words, rebuilding American jobs, rebuilding America, with jobs that cannot be outsourced overseas—good-paying jobs, middle-class jobs—investing in America.

Promoting education and job training is so critically needed in this fast-paced, changing world we live in. There is also investment in the future of our energy economy. I am proud my green collar jobs initiative is a part of that. Let me speak to that for a moment. As part of our effort to create jobs and look to the future, I was very pleased that the Senate included my green collar jobs initiative, and that it is substantially intact as it comes out of the conference committee. We focused on 5 areas in the proposal that we put forward: energy efficiency, and conservation, jobs, weatherizing buildings, grants to State and local communities for energy efficiency, and conservation. We can immediately create thousands and thousands of jobs by doing the right thing on energy efficiency and conservation.

Secondly, there is advanced battery technology. When you come from my great State, where we are proud to make automobiles, the buzz word these

days is ''batteries.'' If we are going to compete and meet our mandate on fuel efficiency and move away from dependence on foreign oil, we have to be investing in advanced battery technology. Right now, China, Japan, and South Korea are ahead of us. When Ford Motor Company decided to make their first hybrid SUV—and I am proud they did that—they could not find a battery in America. They had to buy that from Japan. With all of the American ingenuity and the smart people we have, we have not been investing in advanced battery technology.

Last year, the President's budget had something like $22 million in it versus the hundreds of million around the world. Our plan that we passed here in the Senate had $250 million in investment in advanced battery technology to make sure we can do the plug-ins, and that GM can quickly move on this technology, and Chrysler is investing in hybrids and other technology, so our companies can compete globally because America invests in our technology.

Retooling older plants. We don't want to say come over and we will build you the plant. We want to keep the jobs in America.

As to biofuel production and access, we know we have spent a lot of energy on biofuel production.

Infrastructure and assets are very important. It is great to make the fuel. We want to grow it in Michigan—and we are—but if you cannot buy it at the pump, it doesn't do much good. This focuses on that as well.

Finally, green job training programs, to create new opportunities. That is what this resolution is all about—value work and looking to the future. This budget provides, as well, $2.5 billion more than the President requested for transportation accounts for rebuilding America. It fully funds the highway and transit programs authorized by the highway bill and includes funding for airport improvement—all things that help us and our communities create safer ways to be able to move around, whether it is airports or roads or whether it is commerce or families going on a vacation or going back and forth to work. These are investments in America. It is about creating good-paying jobs.

The Department of Transportation estimates that for every $1 billion in highway spending, you create 47,500 good-paying middle-class jobs. This budget recognizes that. It also creates $2 billion in economic activity for every $1 billion we invest in infrastructure.

I am glad to see, for the benefit of our country and our families, that the conferees have also invested in other important areas related to education and job training for the future. This is absolutely critical for us.

This budget resolution reflects the values and priorities of the American people. It makes sure we are rejecting the President's efforts to eliminate the COPS program. We want to keep our families safe in their communities, with our children being able to play in parks and on the streets, and know that we have community police officers available to help keep them safe. Then there are the Byrne grants to help our first responders, the firefighters and police officers.

We also, I am proud to say, keep the promise we began last year to fully fund veterans health care as a major priority for our country.

So there is a lot to celebrate in this budget. On top of the new investment and new priorities and changing the way things are done, these investments are paid for because we are following what is called the pay-go rules, which helped balance the budget back in the 1990s and brought us into surplus at the end of the last decade.

We cannot mortgage our children's future, as the administration has done, with soaring deficits and record spending that is not paid for. Instead, we invest in our children's future, in our families, and we balance the budget by 2012.

Again, I congratulate our chairman for his tenacity, his passion, and his commitment to doing the right thing, doing it in a fiscally responsible way. We have all worked so hard to lay out a vision of America that is about jobs, about the future, about investing in America. It is time we did that. The American people expect us to do no less.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CONRAD. Mr. President, I thank the very able Senator from Michigan, Senator STABENOW, who is an extremely valuable member of the Budget Committee, for her contribution throughout the budget process this year. She has been an absolute champion of the green jobs initiative. We have $2 billion in this conference report for green jobs, which is not only going to help the economy, but it is also going to be good environmentally, and we think even better long term in the economics of the country, because we are going to have, as the world turns its attention with greater concern to environmental issues, high-paying jobs here in this country.

That takes some work, some investment. That is provided for in this conference report. Frankly, it is one of the things I am most proud of in this conference report. It would not have happened without the effort of the Senator from Michigan. She deserves great credit for that. She has also been one of the real leaders on making certain that our veterans coming home from Iraq and Afghanistan have the health care they need and deserve. That is the second part of this bill of which I am especially proud—the additional resources—some $3 billion above what the President requested—for health care for our Nation's veterans.

A third area in which the Senator from Michigan has been especially helpful has been the health care. She has championed health information technology, and we have a reserve fund here to take advantage of the opportunity that is out there for the Nation by more broadly adopting the use of information technology in medical care.

The RAND Corporation has told us—and the Senator has brought it to our attention repeatedly, and that is why it is very much in my mind—that we can save $80 billion a year, if I am not mistaken, if we would broadly adopt information technology in the health care industry, the health care sector. Think of that—$80 billion a year, over 5 years. That is more than $400 billion. So that makes common sense.

I will conclude by saying I think this has been a healthy and full debate today. We have had almost 4 hours, which is about typical on a conference report. I am being informed by the leadership we will not vote until tomorrow morning. I am told that the likelihood is that the budget, which is subject to agreement with both sides—I am being told of the likelihood that the budget vote will not occur until perhaps 9:30 tomorrow morning. I am told the farm bill override vote will also, most likely, occur tomorrow.

I don't have that conclusively, but that is the initial indication I am receiving, that that is the most likely outcome. So I urge Senators not to jump in their cars and head home without checking out with leadership staffs on both sides, but that in fact is the likelihood. I don't think I have anything further to add.

I do think we have laid out the case for this conference report clearly and, I hope, in a compelling way. This has been a difficult challenge—to write a budget in an election year. We know the Congress has not adopted a budget in an election year since 2000. It is extraordinary, if you think about it. This country, in an election year, has not had a budget since 2000. That cannot be the way we do business around here.

I am very proud we had a budget last year. I am very proud we are on the brink of getting a budget this year, even though it is an election year. I hope that sets an example for whoever is in charge that getting a budget does matter.

We have to bend our best efforts on both sides to make certain that this country, the greatest nation on Earth, has a budget. That is about as basic as it can get.

I again thank the Senator from Michigan for her leadership and her great assistance on the Budget Committee and also on the Agriculture Committee on this very important legislation on which we will be seeking to

override the President's veto. That bill really should not be called a farm bill. It is far more than that. It is a food bill, an energy bill, a conservation bill, a trade bill, although inadvertently the enrolling clerk over in the House dropped off the trade title. So that will create a bit of a challenge for us as well.

I thank very much the Senator from Michigan.

Mr. President, I ask unanimous consent to have printed in the RECORD data on pay-go.

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

GOP CLAIMS ON PAYGO FULL OF HOLES

Alleged "Real PAYGO Violations"

	Claim	Fact
Immigration Reform —Never passed Senate. —Fully paid for on unified basis.	$30.3 B	0
Energy Bill —Final bill sent to President more than paid for. —Passed Senate 86–8.	4.2 B	−$52 M
Mental Health Parity —In conference—final bill will be fully paid for. —Passed Senate by unanimous consent.	2.8 B	0
Prescription Drug User Fee Amendments —Final bill sent to President more than paid for. —Passed Senate by unanimous consent.	0.2 B	−4 M
Minimum Wage Increase —Fully paid for on unified basis.	50 M	0
Water Resources Development Act —Final bill sent to President more than paid for. —Passed Senate 81–12.	4 M	−5 M
TOTAL	$38 B	61 M

Source: SBC GOP "Swiss-Chesse-Go" chart, SBC Majority staff.
Note: Minimum wage increase in 2007 supplemental was fully paid for on unified basis, but had small net on-budget cost.

Alleged "Gimmicks to Get Around PAYGO"

	Claim	Fact
SCHIP Reauthorization —More than paid for over 6 and 11 years. —5-year reauthorization—Congress will reauthorize in 2012 with new policies and offsets.	$45 B	−$207 M
Farm Bill —More than paid for over 6 and 11 years. —5-year reauthorization—Congress will reauthorize in 2012 with new policies and offsets.	27.5 B	−102 M
Higher Ed Reconciliation Bill —More than paid for over 6 and 11 years —Savings will continue to grow in decades beyond budget window.	26 B	−752 M/5 yrs 3.6 B/10 yrs
2007 Supplemental—County Payments/PILT/MILC —PAYGO rule applies to mandatory spending and revenues only—not to appropriations. —Discretionary spending controlled by separate caps. —2008 budget resolution established new 60-vote point of order to limit changes in mandatory spending on appropriations bills and strengthen PAYGO even further.	6.5 B	0
TOTAL	105 B	−3.9 B

Source: SBC GOP "Swiss-Cheese-Go" chart, SBC Majority Staff.
Note: Per section 201 of 2008 budget resolution, net savings enacted pursuant to reconciliation are not included on PAYGO ledger. They are reserved solely for deficit reduction.

Mr. BAUCUS. Mr. President, this budget resolution conference report allows Congress to take action on many of America's priorities.

This conference report starts by providing for many priorities through the revenue side of the budget.

This agreement includes monies to pay for extending expired and expiring revenue provisions.

These provisions include the teacher expense deduction, which helps teachers who buy school supplies.

These provisions include school construction bonds, to help repair our country's deteriorating school infrastructure.

And these provisions include help to businesses to stay competitive. In particular, the budget assumes extending the research and development credit, which gives businesses an incentive to increase research. This will keep America as a top innovator in science and technology.

This conference agreement on the budget resolution also includes monies to provide for education tax reform. So far this year, the Finance Committee has held two tax reform hearings. One of the major themes of the testimony has been simplification.

Witnesses almost always cite education tax incentives as an example of needless complexity. This conference report would allow us to help make education more accessible and affordable by making the education incentives easier to use.

The agreement also includes my amendment that was successfully added to the budget resolution on the Senate floor.

My amendment took the surpluses in the budget resolution and gave them back to the hard-working American families who earned them.

My amendment provided for some important priorities so that the business of America's families can be taken care of.

First, my amendment provided for permanence of the 10-percent tax bracket. That is an across-the-board tax cut for every taxpayer.

Second, my amendment provided for making permanent the changes to the child tax credit. That is a $1,000 tax credit per child. This tax credit recognizes that a family's ability to pay taxes decreases as the family size increases. Unless we act, the child tax credit will fall to $500 per child in 2010.

Third, my amendment provided for making permanent marriage penalty relief. This relief makes sure that a married couple filing a joint return has the same deductions and tax brackets as they would if they filed separately as individuals.

Fourth, my amendment provided for making permanent the increased dependent care credit and changes to the adoption credit.

Fifth, my amendment provided for tax provisions to help military families. And I am pleased to say that these are very close to being adopted by the Congress. This shows that Congress values the sacrifices that our men and women in uniform make for us every day.

Nearly 1½ million American service men and women have served in Iraq, Afghanistan, or both. Nearly 30,000 troops have been wounded in action.

Congress is about to show our support for our service men and women by making the Tax Code a little more troop-friendly.

We will extend the special tax rules that make sense for our military that expire in 2007 and 2008.

We can eliminate roadblocks in the current tax laws that present difficulties to veterans and servicemembers.

One of these roadblocks is how the Tax Code treats survivors of our fallen heroes. The families of soldiers killed in the line of duty receive a death gratuity benefit of $100,000.

The Tax Code restricts the survivors from putting this benefit into a Roth IRA. We are about to make sure that the family members of fallen soldiers can take advantage of these tax-favored accounts.

Another roadblock in the tax laws impedes our disabled veterans. I am talking about the time limit for filing for a tax refund. Most VA disability claims filed by veterans are quickly resolved. But many disability awards are delayed due to lost paperwork or the appeals of rejected claims.

Once a disabled vet finally gets a favorable award, the good news is that the disability award is tax-free. The bad news is that many of these disabled veterans get ambushed by a statute that bars them from filing a tax refund claim. We are about to give disabled veterans an extra year to claim their tax refunds.

Most troops doing the heavy lifting in combat situations are the lower ranking, lower income soldiers. Their income needs to count towards computing the earned-income tax credit, or EITC. Under current law, however, income earned by a soldier in a combat zone is exempt from income tax. This actually hurts low-income military personnel under the EITC.

The EITC combat-pay exception allows combat zone pay to count as earned income for purposes of determining the credit. That way, more soldiers qualify for the EITC. But this EITC combat-pay exception expires at the end of 2007.

We are about to make this provision permanent.

The budget resolution conference report also provides for some certainty to American families on the estate tax.

Lowering the estate tax to 2009 levels is the least that we can do as estate tax reform.

I am pleased that the conference report recommends appropriations of $240 million more than the President requested for the administrative costs for the Social Security Administration for fiscal year 2009.

These funds are badly needed to reduce the enormous waiting times that many applicants for Social Security disability benefits must wait before their claims are finally approved. Funds are also badly needed to improve the low levels of service to the public in SSA's local field offices.

I am pleased to see that the resolution captures Democratic health care priorities and provides economic relief

for families. It provides funding for maternal and child health; nutrition assistance for women, infants, and children or WIC; and the Social Services block grant. And the resolution accommodates legislation to modernize the unemployment insurance program.

The resolution retains the reserve funds passed in the Senate to reauthorize CHIP and expand coverage to eligible but unenrolled kids. This is a personal priority for me.

The budget also works to protect seniors from unscrupulous marketing of Medicare drug plans, thereby laying the groundwork for a strong Medicare bill currently under negotiation.

The resolution also provides for important improvements to Medicare, such as promoting the use of Health IT.

And it would set up a ''comparative effectiveness'' reserve fund to help us learn what treatments work best and most efficiently to keep Americans healthy. I am working with Chairman CONRAD to introduce legislation on this topic this year.

All of these investments take steps toward addressing the underlying growth in health care costs.

The resolution is also tough on government waste, fraud, and abuse and includes important program integrity initiatives to crack down on wasteful or fraudulent spending in the Social Security, Medicare, Medicaid, and Unemployment Insurance Programs.

This budget resolution also accounts for important international trade priorities under the Finance Committee's jurisdiction. The resolution establishes a reserve fund for trade adjustment assistance and a separate reserve fund for other trade initiatives. These reserve funds will allow the Finance Committee to realize legislation to reauthorize trade adjustment assistance, as well as pursue legislation to extend trade preferences, reauthorize customs functions, and implement bilateral trade agreements.

Mr. President, I am thus pleased that this budget resolution conference report allows Congress to take action on these important priorities. I look forward to working with my colleagues to implement the improvements contemplated in the resolution. And I urge my colleagues to support the conference report.

The PRESIDING OFFICER (Ms. STABENOW). The distinguished majority leader.

Mr. REID. Madam President, I am sorry to interrupt my friend from North Dakota, but we are not going to have any more votes tonight. We expect votes early in the morning, as early as 9:30. They will go on throughout the day. So everyone should be aware we are not going to have a vote tonight on the budget or the farm bill, but we will do the budget the first vote tomorrow, and after that we will move to the farm bill.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, I thank the leader. I was thinking about this the other night. We don't thank the leader enough. We are blessed on our side with a leader whom I think every Member on our side has high confidence in because of his good judgment, his fairness, his balance, his willingness to listen and then decide. Even though he may not always agree with any one of us on a particular issue, he always listens, and he does it with respect, and then he decides. He makes a decision. I thank him for it. I know the role of leader is absolutely the toughest job in this town. It is an extremely difficult, demanding job, and our leader does an outstanding job of it. That is why he enjoys the confidence of our colleagues and the affection of our colleagues.

Mr. REID. Madam President, if I may thank the Senator from North Dakota but also say there isn't anything that I agree to out here that doesn't have the full consent of the Republican leader. So even though Senator MCCONNELL and I in public kick and bite and scratch and all those things, I have the ability to work with him on issues, which makes it possible for us to get business done outside the press and a lot of times Senators.

I really appreciate my friend from North Dakota. He and I came to the Senate together. I can remember the first time I saw KENT CONRAD. It was in the LBJ Room. It wasn't named the LBJ Room at the time. We were there for the purpose of indoctrination—I don't know the right word—but we were nominees of our parties. We were running for the Senate in 1986. Neither one of us was expected to get elected. We were both long shots. He was running against an incumbent Senator. I was running against President Reagan and Paul Laxalt. But we surprised them; we won.

We have such a warm relationship. I love Lucy, his wife. When we first came here, a lot of people mixed up Landra and Lucy because they are both short, somewhat dark complected, but we don't mix them up.

I say to the people watching C–SPAN, the only Senators in this Chamber are Senator CONRAD, Senator REID, and Senator STABENOW. Senator STABENOW has indicated in a meeting we just completed that she said the right thing at the right time to help us get to where we are today.

I am embarrassed with the kind words of my friend from North Dakota, but I thank him very much.

Mr. CONRAD. I thank the leader.

Madam President, I wish to indicate to the Chair that we have one other Member on our side who is going to come to the Chamber to talk. Senator WHITEHOUSE is going to come. I think he will only be seeking about 15 minutes, I say to the Chair. He will be here in 10 minutes. He will seek only about 15 minutes. I mentioned this to Senator GREGG. So after Senator WHITEHOUSE, other than Senator DODD, who might still come for 6 or 7 minutes, that will complete speakers on our side. Senator GREGG told me he does not believe he has any further speakers on his side.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

THE BUDGET

Mr. WHITEHOUSE. Madam President, as we conclude the discussion on the budget, in which the Presiding Officer participated so eloquently just a few moments ago, I wanted to come to the floor because there is a significant feature in America's fiscal picture that affects this budget considerably but has not really gotten the attention it deserves; that is, the debt of the United States of America that has been run up by President George W. Bush. It is a frightening legacy, really, because of the weight, the fiscal burden of it that will weigh on our children and our grandchildren.

If I may, we calculated the Bush Debt at $7.7 trillion, and we did it this way. We took the projections for the U.S. budget on the day George Bush took office, which, as the Presiding Officer may recall, projected that we actually would have no debt left at all in our country by as early as fiscal year 2009—and, indeed, there was economic debate among America's leading economists wondering if it is really good for our country for America to be completely debt free. What is the ideal level of debt? Should we maintain some level of debt? Are there potential problems if the United States were to be completely debt free? That was the discussion. That was what America was looking forward to.

The nonpartisan, professional Congressional Budget Office had a projection on where that budget was going to go on the day George W. Bush took office, and that is the top line of our projection. We call it the Clinton budget landscape because it resulted from the economic policies of the Clinton administration which left this country in such good health for President George W. Bush. That was what could have been. The other line is what he did, what this country has done to itself fiscally under George W. Bush. When you compare the difference between the upper line, where the country was going, and where George Bush took us, the difference is the Bush Debt, and it amounts to $7.7 trillion. To me, that is an almost unimaginable number. So just to kind of give an idea of how many zeros that will be, this is what it looks like. That is $7.7 trillion. Even in the great State of Michigan, where the Presiding Officer hails from, that is a

big number. To somebody like me, from Rhode Island, it is almost unimaginable. So I asked my staff to give me some means of comparing, some way of thinking about how big that number is.

This is a penny. And I asked my staff: If a penny was $1 billion and you put a stack of pennies on my desk here, how high would that stack of $1 billion pennies go to make $7.7 trillion? Well, they found out that the stack of $1 billion pennies would have to go 39 feet high to amount to $7.7 trillion. I don't think the television camera can take this in, but from here to the very top of this room is about 39 feet of $1 billion pennies. That is the enormous burden on our country from the improvident, wasteful, feckless policies of the Bush administration.

I have a credit card. The distinguished Senator from Michigan has a credit card. If we borrow money on our credit cards, we have to pay interest. American families across the country work to pay interest on mortgages, on credit cards, and on loans of various kinds. Well, guess what. We have to pay a lot of interest on a debt such as we have. And in the recent budget, as the Presiding Officer will recall, that we just passed in the Budget Committee and that we are discussing on the floor, there is $260 billion in interest, much of it paid to foreign countries, on our national debt—$7.7 trillion of it run up by one administration, the administration of George W. Bush.

Now, that $260 billion is another pretty big number. So I asked: What could we do with $260 billion if we didn't have to give it to the Saudis and the Chinese and the Mexicans and everybody else we have borrowed money from to fund George Bush's $7.7 trillion debt? Well, here is what we could do: For starters, we could pay for health insurance for everyone. We would have universal health care in this country. And you know what, there would be money left over. With the money that was left over, you could also add a million children—a million children—to Head Start Programs. Universal health care for everyone, a million extra children getting Head Start, and still there would be money left over. You could double every Pell grant, which helps kids in America pay for college and reach out and seize their futures. Universal health care, a million extra kids in Head Start, and doubling every Pell Grant. And there would still be money left over. With that last bit of money left over, you could repair or replace 95 percent of the bridges that currently need repair and reconstruction in America—not 100 percent, only 95 percent. You would have to wait until next year to do that last 5 percent.

That is what the cost to us is of an administration and a Republican Congress that ran up $7.7 trillion in debt.

So I appreciate very much the ranking member who spoke eloquently last week about the problem of that last $9.6 billion in discretionary spending we authorized in the Senate-passed budget above the $1 trillion mark. We wouldn't need to worry about that $9.6 billion if his colleagues and President Bush hadn't run up $7.7 trillion in debt for Americans to have to pay in the future because this administration, frankly, was too cowardly to pay its own way and has borrowed from future generations to pay for the war in Iraq and to pay for tax cuts for the richest Americans. In a country where the difference between the wealthy and the poor, between the CEOs and the workers is growing dramatically, is straining the very fabric of our society, instead of bringing us together, what was the President's solution? Lots more tax cuts for the very richest people, who are doing the absolute best already, the ones who have nothing to worry about except whether they take the Lincoln or they take the Benz. They are the ones who need the tax cuts in this country? I don't think so. But the President did, and he didn't even have the guts to pay for it or find the cuts. He borrowed the money. That is why we are at $7.7 trillion.

So I think it is fascinating that we are having this budget discussion. I want to salute our chairman, Senator CONRAD, who is absolutely brilliant with the budget. He works so well with people in this body and has such enormous credibility that he is able to work through issues in a very special way—in large part because of his personal character and his credibility. We all benefit from his being able to do that.

But he has had to work very hard to try to bring this budget into balance, 3 or 4 years out from now. It is not easy work, putting this budget together.

When people come to the floor and criticize his efforts and try to knock $9.6 billion off and worry that this might not be fiscally prudent, it is astonishing when those remarks come from the people who aided and abetted George Bush in running up $7.7 trillion in money that we owe now to the rest of the world, that we will have to pay off indefinitely, that will be a weight and a burden on the shoulders of this country for decades if not generations.

I actually think we need to do something about the $7.7 trillion Bush Debt. I recommended that we have a formal commission of some kind, an authority whose job it is to take the best and the brightest people who understand our economy and figure out how we pay down $7.7 trillion. It is really a disaster.

Some of us have served in State government before we came here. Some of us have served in municipal government. If there is a crisis at the State government level—an economic crisis—if a municipality has a terrible fire in a facility and has to rebuild, you take that problem and you set it aside and you create a revenue stream and you deal with it. You don't try to force it through the regular operating budget of the State or of the municipality.

We may be at the stage where the Bush Debt of $7.7 trillion is so serious for us fiscally that we should start thinking about getting together a group of the most learned economists, the people who care the most about America's future, who see the hazard to our welfare, to our national security that this kind of debt creates, and can think creatively about how we can set up special revenue streams to pay it down and begin to bring our country back in balance.

I appreciate the courtesy of the Chair in listening to these remarks. I did think as we closed out the budget debate it was important to remind everybody that, for all the big talk the Bush administration may make about fiscal prudence and about being responsible, it is the most fiscally imprudent and the most irresponsible administration in our history. Indeed, President Bush alone has borrowed more money from foreign countries than all 42 Presidents who preceded him—not any one of them, all of them. If we add up everything they borrowed through the entire history of the Republic, in just one Presidency he has them beat.

It takes a little brass to be able to come and argue for fiscal prudence and responsibility and not mention that President Bush and the Republican Congress ran up $7.7 trillion in debt. I thought we should think about it and reflect on that as this debate concludes.

I appreciate working with the very distinguished Senator from Michigan. Her work on the Budget Committee is very valuable. She is a wonderful colleague to me, and I appreciate the indulgence this evening.

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

The PRESIDING OFFICER (Mr. CASEY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BROWN. I ask unanimous consent to speak up to 10 minutes as in morning business.

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

CLIMATE CHANGE

Mr. BROWN. Mr. President, both the international community and experts from across our country have come to a definite consensus. Climate change is not a theory. It is a reality. We may not like it, but we have to confront it. Rising temperatures, melting icecaps, and extreme weather show the increasing effects of global warming in the United States and especially around the globe. Without action, we will be unable to avoid dangerous consequences for our children, grandchildren, and subsequent generations. We risk the health of our citizens, the

well-being of our coastal areas, the productivity of our farms, forests, and fisheries.

There is solid support in this institution and around the country for a mandatory cap-and-trade approach to reducing carbon emissions. All three Presidential candidates—Senators OBAMA, CLINTON, and MCCAIN—and both political parties have agreed on this philosophy. The Senate passed the Lieberman-Warner bill out of committee in December. It is likely to reach the floor of the Senate in the next few weeks. I am not saying a climate change bill will pass this year. I am saying a climate change bill will pass. No more burying our heads in the sand, no more ignoring the issue and putting it off for another day. It is not a question of whether; it is a question of when and a question of what it will look like.

As a manufacturing State reliant on coal—not too different from the State of the Presiding Officer—Ohio is going to be significantly affected by the climate change bill regardless of its specifics. I am working with Senators from other industrial States—Senators CASEY, BAYH, LUGAR, DURBIN, STABENOW, LEVIN, and others—to ensure that the effects on manufacturing jobs are considered as this legislation is drafted. We can't shut our eyes or turn our backs or hope that global warming goes away and becomes someone else's problem. That is not going to happen. But we can maximize Ohio's gains, Pennsylvania's gains, the gains of other States, and minimize those losses, looking first at the opportunities presented to us by global change legislation.

The mandatory cap-and-trade approach to climate change will create a market for clean energy and green jobs. By creating markets for clean energy, we can stabilize our Nation's energy supply, reduce greenhouse gases, and bolster manufacturing in Lima, Zaynesville, Toledo, and Ashtabula. It has been estimated that in terms of a global market, the advanced and alternative energy sector will double several times over in the next decade, from a $55 billion industry to a $226 billion business. Wind power alone, it is estimated, will grow from $18 billion to a $61 billion market. In the last 15 months, I have conducted roundtables in Ohio, bringing together 15 or 20 people to talk about problems, about their communities. You can see what is happening in a State such as mine.

The Cleveland Foundation, in conjunction with Case Western Reserve University, is going to build a field of wind turbines in Lake Erie, the first time wind turbines have ever been placed in a freshwater lake.

I have seen the Composite Center in Dayton which makes new, lighter, stronger materials, initially for airplanes, now for fuel-efficient automobiles and wind turbines. The University of Toledo is doing some of the best wind turbine research in the United States. In Columbus and Ohio State, there is the Center for Automotive Research, the work they are doing for more fuel-efficient automobiles. Today I talked with someone who was visiting Washington from Battelle Institute. They are doing astonishing things on a whole range of issues; Stark State and Rolls-Royce on fuel cells. Oberlin College has built the largest building of any college campus in the country fully powered by solar energy. The problem is those solar cells and panels are not made in this country because we don't make them. They were bought from Germany and Japan.

At the same time, we are seeing the largest solar company in the country producing near Toledo in Perrysburg. In Ashtabula, right across the border from Erie, we are seeing components for wind turbines. In place after place, Ohio is helping to lead the way to make my State the Silicon Valley of renewable energy.

Ohio has the potential to create 20,000 new jobs through renewable energy projects. That puts Ohio second only to California in terms of potential job creation. But we have a lot of work to do. Any climate change legislation must invest in the deployment of renewable energy technology and promote green job growth. That is why I introduced legislation called the Green Energy Production Act last month. It is an energy bill, an environment bill, and a jobs bill. The bill creates a government corporation that will set up loan programs and grant programs for green energy manufacturers, mostly small businesses, to get them to develop products and get them to market.

Over 5 years, the bill would invest $36 billion with no political strings attached, no Government picking winners and losers but companies that need capital that are just taking off, small businesses, businesses that need to grow, businesses that need to expand. Some $36 billion will be invested in green energy manufacturing. We have great R&D in my State, but the big problem is commercialization, the key to creating jobs in my State.

Speaking of jobs, we can't overlook the tremendous challenges the industrial Midwest will face under climate change legislation. My State is the seventh largest in the country by population. We are the fourth largest carbon-emitting State, behind California, Texas, and New York. In the past year and a half, I have held roundtables all over my State in some 60 of the 88 counties. They have given me an opportunity to be with workers and business people and civic leaders and local government officials.

One thing is crystal clear: Ohioans are anxious about their communities' futures, and the statistics match their anxiety. More than 40,000 manufacturing plants have shut down in the United States since 2001. More than 3.3 million manufacturing jobs have been lost, about one-sixth of all U.S. manufacturing jobs. My State has lost more than 200,000 jobs. Pennsylvania is comparable. The simple fact is, our economy cannot prosper unless we manufacture and sell goods as a State and a nation. Manufacturing is too important to the prosperity of this country and to our economic and national security. Manufacturing is too important to ignore, as this Government has done in the last few years.

I know, given a level playing field, our companies can outcompete any around the globe. Any climate change legislation must be developed in conjunction with manufacturers to ensure U.S. competitiveness with other growing industrial giants in the world, particularly China and India. We must work together to ensure that domestic manufacturers are protected from imports that come from countries without comparable climate change legislation. That means working together to provide appropriate transition assistance to our energy intensive industries. My State, in some sense, specializes in energy-intensive industries—steel, chemicals, glass, cement, aluminum. We must work together to minimize any economic harm while ensuring the environmental integrity of the climate change legislation.

The bill that came out of committee needs to do a better job. It has made progress from the original bill to the substitute bill brought forward by Senator BOXER. It has made major progress, but it has to do a better job of addressing the need, particularly in people's own personal electric bills and the cost of energy to manufacturers. The bill needs to help low- and middle-income consumers who will face higher energy costs and must help communities and workers who are displaced due to a shift from coal power. It means providing support necessary to create green jobs in Ohio and across the Midwest, and it means helping those energy-intensive manufacturers I was talking about with their energy costs and with unregulated international competition. Some environmental groups quote economic models saying that business under a cap-and-trade program will be all wine and roses. They are on one side. Some business groups are touting economic models that predict climate change legislation will send us all back to living in caves. Both sides are wrong. It is not going to be that easy, but it is also not going to put American business out of business.

One last point. When you talk to people about climate change, one of the first questions that always comes up is what do we do about China and India. If they are not going to, why should we, in some sense, unilaterally disarm as a country, putting more and more costs on Ohio businesses in Cleveland, Columbus, Dayton, Cincinnati? Why should we put more cost on these businesses, when China and India are not doing that? We have three possibilities. One is do nothing. That is unacceptable. We have two other possibilities:

To work with countries around the world on bringing them to a level of climate change comparable to the level we want to get to; one is multilateral environment and climate change agreements, negotiations, Kyoto-type agreements among all the major industrial powers in the world. That will take years. That will perhaps only be as successful as Kyoto, which wasn't very successful, ultimately.

The other path to walk down is what we do about trade legislation, about accepting those products coming into the United States from other countries. When we have pretty strong environmental laws, you know in your State what has happened with the steel industry, where they have put huge numbers of dollars into scrubbers and other kinds of environmental cleanup. China and India, frankly, don't do that. When we buy products from China and India, we buy steel from them, discounting the issue of toxic toys and contaminants in vitamins and all the unsafe products they send us that are ultimately consumer products, but when we buy steel from China and India, that steel is made by cheaper labor, and it is also made with very weak environmental rules.

The only way to change that, to get China and India to the table, if you will, if we will not do the negotiations that will be so difficult and tedious and take so long, is to say, every time we import steel from China and India, steel where there is an environmental cost in its production, we charge a tariff at the border, a tariff reflecting the cost that they have not borne but that our manufacturers bear on the production of that steel. So why should a steel company in Lorain or a foundry in Mahoning Valley have to pay these huge additional costs under climate change to deal with their carbon emissions, when people in China and India don't? The only way to equalize that and to make this competitive and keep American business competitive is to figure out what it actually costs China and what moneys China and India save by not coming up to the same level of environmental protection that we do.

That should always have been part of the trade debate. The Bush administration has never believed that. That is one of the reasons we have lost so many manufacturing jobs in my State, since President Bush took office—bad trade policy, bad environmental policy, bad labor policy.

Ultimately, this climate change issue is going to be about equalizing the cost of making air cleaner, limiting carbon emissions, dealing with all the issues around CO_2. The way to do that is through a trade policy that works for us, for China, for India, and especially works for our grandchildren, great-grandchildren, and those subsequent generations. We must work together in this institution to shape legislation that truly addresses global climate change while protecting our manufacturing jobs. That means working assiduously with countries around the world in reaching those goals.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ENSIGN. Mr. President, I ask to speak in morning business.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

LESSONS FROM 1787

Mr. ENSIGN. Mr. President, I rise today to address some of the critical issues this body faces at this point in history, and to reflect on why these challenges are surmountable if we focus on working together to forge ahead.

These are clearly not easy times. We are engaged in a global battle for the future of freedom. We are up against radical Islamic extremists who will do anything they can to annihilate those who do not live and believe their way.

At home, we face some daunting questions when it comes to expanding opportunity for all Americans. So do we follow a proven path of tax relief? Can we change the way we educate our children to prepare them for global competition in the 21st century? How do we provide quality health care that is accessible and affordable for all of our families? How do we secure our borders and strengthen legal immigration? Can we come together to make difficult decisions about the future of entitlements before they bankrupt this country?

Today, we face the task of funding the global war against Islamic extremists, providing our troops with the resources they need and prioritizing funding so we do not incur unnecessary debt.

Yes, these are tough questions, with serious consequences. But more than two centuries ago, a group of patriots convened to write our Constitution, and they provided the framework for the Government in which we have the honor to serve today.

They faced questions we take for granted centuries later but which could only have been resolved by incredible vision and the grace of God.

As Delegate James Wilson stated:

. . . we are providing a Constitution for future generations and not merely for the circumstances of the moment.

How votes would be apportioned in the Congress was one of the first and most difficult questions this convention tackled. The smaller States wanted an equal vote, and the larger States, obviously, preferred a proportional vote. Some argued that the vote in the lower House should be based on taxes paid. There were threats of breaking up States to make them smaller and more manageable to govern. Decisions had to be made regarding the terms of Members of Congress. How would they be paid? What powers would be granted to the Government?

Remember, this was a country that had fought its way out from under the control of a powerful monarchy. The Framers of the Constitution were incredibly aware of that fact.

The Great Compromise was the measure that gave every State two Senators. But would foreigners be permitted to serve in the Congress? Where would the seat of Government be? Would officers of the Government be required to swear an oath to support the Constitution? Who would ratify the Constitution—the States or the people?

To think today about the number of decisions and compromises that were made over the course of a summer is humbling. The North Carolina delegates wrote to their Governor:

A very large Field presents to our view without a single Straight or eligible Road that has been trodden by the feet of Nations.

Yet great thought, debate, and deliberation went into every single decision. Issues were often revisited time and again before a consensus was painstakingly reached.

The Constitution was by no means thrown together quickly or haphazardly. Once decisions were ultimately made about the branches of Government and their powers, a document needed to be artfully drafted to steer the United States in 1787 as well as for generations to come. The product was nothing short of miraculous. Yet the Constitution was still not a done deal.

The Constitution and its revolutionary ideas had many supporters, but it also faced fierce opposition. It was described as ''a most ridiculous piece of business'' by some. Those who stood against the Constitution honed in on people's fears. After all, this was a completely experimental government with no proven model to follow. As delegate Davie of North Carolina declared: ''It is much easier to alarm people than to inform them.''

Fortunately for this Nation the constitutionalists prevailed. To study the transformation of a blank slate of hopes and aspirations to a functioning Constitution that would guide a democracy for more than 200 years is awesome. There are several valuable lessons that I wish to share with my colleagues.

It is difficult to pass legislation today with a closely divided Senate. It was painfully difficult to make decisions about forming a new government and then determine and agree on what should be included in our Constitution. To make progress even more frustrating, a subject already voted on could be reconsidered again the next day and voted on again.

But these men did not let the process interfere with their progress. Their experience and their reasonableness

shined during the most difficult days. They understood if they were serious about creating this Constitution, they would have to work together and consider and respect each other's differences.

In the end, the Constitution was the work of those for it and those against it. They came to many compromises in order to make the final product that all could live with. John Adams described the Constitution as:

If not the greatest exertion of human understanding, the greatest single effort of national deliberation that the world has ever seen.

Although I serve as chairman of the National Republican Senatorial Committee, I have always prided myself on reaching across the aisle to work for the common good. For example, my home State of Nevada has greatly benefited from the work Senator REID and I have done together on several public lands bills. He brings certain people to the table who trust him; I bring others to the table who trust me. We encourage a dialogue that has resulted in crucial legislation for our State. I imagine this is the kind of give and take that made the Constitution possible.

Another important lesson from the Constitutional Convention was the understanding of the implications that our leaders' words have around the world. There were people who were completely opposed to the Constitution, but they knew how damaging their opinions could be, especially if those opinions were made overseas.

Benjamin Franklin stated:

The opinions I have had of its errors, I sacrificed to the public good. I have never whispered a syllable of them abroad. Within these walls they were born and here they shall die.

I think this is a critical flaw that is too often made in this body today. Our words have consequences. Today, it is much more difficult to contain what we say. Technology ensures that our enemies have access to the same television shows, Internet sites, and newspapers that our citizens have today. It is naive to think that a debate on the floor about retreating from Iraq has no impact on those plotting against us. It absolutely feeds into their strategy and their hope for our failure and our demise. We should all remember Benjamin Franklin's approach of working to contain our opinions that may be harmful to our Nation.

Finally, there comes a time after a contentious issue when we must come together and move forward. Abraham White, a fierce opponent to the Constitution, gave his word that he would work to convince his constituents to submit to the new law of the land and to live in peace under it.

Mr. President, 220 years ago, the States were in the midst of deciding whether they would ratify the Constitution. It was the pinnacle of a turbulent summer that left many of our delegates amazed at what they had actually achieved. George Washington called it ''little short of a miracle.'' The entire effort, from the first days of the convention to the parades that celebrated the United States and its Constitution, was in fact a miracle. Benjamin Rush, a Philadelphia physician who signed the Declaration of Independence, described the unparalleled emotion that was shared by all during the Philadelphia celebration of the Fourth of July—even greater than at any wartime victory. His description included the words: ''We have become a Nation.''

It is overwhelming to think about the work that was done hundreds of years ago so that we could continue to live and uphold the tenets of an enduring Constitution today. What a remarkable tribute to the delegates of the Convention and to the leaders whose vision led to the ratification of our Constitution.

I hope we can keep in mind the many hurdles overcome in 1787 by the Constitutional Convention and the men who were gathered there and come together in drafting a real supplemental that will fund our troops, give our military leaders the tools they need, and show the Nation we are united and that we are committed together in this global war against radical Islamic extremists. We have a tremendous legacy on which to continue building. Let's commit to doing that.

I yield the floor.

THE MERIDA INITIATIVE

Mr. LEAHY. Mr. President, the fiscal year 2008 supplemental appropriations bill provides $450 million for the Merida Initiative, including $350 million for Mexico and $100 million for Central America, Haiti, and the Dominican Republic. This is the first installment of an ongoing commitment to help our neighbors to the south respond to the growing violence and corruption of heavily armed drug cartels. It represents a tenfold increase in assistance for Mexico in a single year.

The Merida Initiative is a partnership, and we recognize that achieving its goals presents an extraordinarily difficult challenge. The United States is the principal market for most of the illegal drugs coming from Mexico and Central America. We are also the source of most of the guns used by the Mexican and Central American cartels. Each country contributes to this problem, and we each have to be part of the solution.

President Calderon and President Bush deserve credit for the Merida Initiative. Better and more cooperative relations between our countries are long overdue.

It is unfortunate, however, that neither the Mexican or Central American legislatures, nor the U.S. Congress, nor representatives of civil society, had a role in shaping the Merida Initiative. There was no refinement through consultation. I first learned of it from the press, as did other Members of Congress.

As we have come to expect from this administration, the White House reached a secret agreement with foreign governments calling for hundreds of millions of U.S. taxpayer dollars, and then came to Congress demanding a blank check.

I support the goals of the Merida Initiative, and this bill provides a very generous downpayment on what I believe will be a far longer commitment than the 3-year initiative proposed by the administration. It will take longer than 1 year just to obligate and expend the $350 million for Mexico in this supplemental bill, and the President has requested another $477 million for Mexico in fiscal year 2009.

In addition to appropriating the funds, most of which may be obligated immediately, we require the Secretary of State to determine and report that procedures are in place and actions are taken by the Mexican and Central American governments to ensure that recipients of our aid are not involved in corruption or human rights violations, and that members of the military and police forces who commit violations are brought to justice.

This is fundamental. For years we have trained Mexican and Central American police forces, and it is well known that some of them have ended up working for the drug cartels. It is common knowledge that corruption is rampant within their law enforcement institutions—the very entities we are about to support.

It is also beyond dispute that Mexican and Central American military and police forces have a long history of human rights violations—including arbitrary arrests, torture, rape and extra-judicial killings for which they have rarely been held accountable. Examples of army and police officers who have been prosecuted and punished for these heinous crimes are few and far between. Mexican human rights defenders who criticize the military for violating human rights fear for their lives.

Some, particularly the Mexican press, argue that conditioning our aid on adherence to the rule of law is somehow an ''infringement of sovereignty,'' ''subjugation'' or ''meddling,'' or that it ''sends the wrong message.'' I strongly disagree.

Since when is it bad policy, or an infringement of anything, to insist that American taxpayer dollars not be given to corrupt, abusive police or military forces in a country whose justice system has serious flaws and rarely punishes official misconduct? This is a partnership, not a giveaway. As one who has criticized my own government for failing to uphold U.S. and international law, as has occurred in Guantanamo, Abu Ghraib, and elsewhere, I believe it is our duty to insist on respect for fundamental principles of justice. I am confident that the Mexican and American people agree.

Mr. President, like Senators DODD, REID, MENENDEZ and many others here, both Democrats and Republicans, I

have long urged closer relations with Mexico. We have much in common, yet throughout our history U.S. policy toward Mexico has been far more one of neglect than of mutual respect and cooperation.

Whether it is trade and investment, immigration, the environment, health, science, cultural and academic exchange, human rights, drug trafficking, weapons smuggling and other cross border crime and violence—our contiguous countries are linked in numerous ways. We should work to deepen and expand our relations.

The Merida Initiative is one approach, and while I and many others would prefer that it encompassed broader forms of engagement, it is a start. Most of the funds are for law enforcement hardware and software, which is necessary but insufficient to support a sustainable strategy. As we have learned from successive costly counterdrug strategies in the Andean countries that have failed to effectively reduce the amount of cocaine entering the United States, we need to know what the Merida Initiative can reasonably expect to achieve, at what cost, over what period of time.

Senator GREGG as ranking member, and I as chairman of the State and Foreign Operations Subcommittee had to make difficult choices among many competing demands within a limited budget. We had to find additional funds to help disaster victims in Burma, Central Africa, Bangladesh and elsewhere, whom the President's budget ignored. We had to find additional funds for Iraqi refugees and for crucial peacekeeping, security, and nonproliferation programs. We could not have funded virtually any program at the level requested by the President without causing disproportionate harm to others, and we sought to avoid that.

Considering the amount we had to spend, the Merida Initiative received strong, bipartisan support. Again, this is not simply a 3 year program as the administration suggests. It is the beginning of a new kind of relationship, and we need to start off prudently and with solid footing.

That means the direct participation of the Congress and of civil society and attention to legitimate concerns about human rights, about monitoring and oversight, about rights of privacy, due process, and accountability. How these issues are resolved is critical to future funding for this program, and we need to work together to address them.

MATTHEW SHEPARD ACT OF 2007

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would strengthen and add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On Thursday evening, May 15, 2008, in Sacramento, CA, a 23-year-old man was sitting in his car at a gas station when he was approached by three men. According to police, one of the men asked him if he was gay and he responded that he was. When the man then exited the car, he was attacked by the three men as they yelled homophobic slurs. Micah Jontomo Tasaki, 21, Gregory Lee Winfield, 20, and Robert Lee Denor, 19, were arrested at the gas staion where the attack occurred in connection with the assault. Luckily for the victim, he did not sustain injuries serious enough to necessitate a hospital visit. A Sacramento police officer investigating the crime has called it a ''gay bashing'' and a hate crime.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. Federal laws intended to protect individuals from heinous and violent crimes motivated by hate are woefully inadequate. This legislation would better equip the Government to fulfill its most important obligation by protecting new groups of people as well as better protecting citizens already covered under deficient laws. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

SOLUTIONS TO CLIMATE CHANGE

Mr. BARRASSO. Mr. President, earlier this spring, I introduced legislation to address the challenge of how to deal with greenhouse gases. The bill is called the Greenhouse Gas Emissions Atmospheric Removal Act, or the GEAR Act.

Members of this body have discussed various proposals to regulate the output of greenhouse gases. Some advocate doing it through a cap-and-trade approach. Others have advocated a carbon tax. Such proposals are aimed at limiting future carbon output into the atmosphere. Many proposals have been introduced and debated using this approach of dealing with carbon output.

We want to protect our environment and we want a strong economy. The way to have both is by thinking anew and acting anew. It is time to use our untapped human potential and the American spirit to develop the technologies we need.

The Senate will soon be debating climate legislation. I believe we should identify solutions through imagination, innovation, and invention, not through limits.

It is my hope and my goal that the GEAR Act will foster the kind of solutions that we need to address the concerns about climate change.

Recently, there was a very thoughtful editorial which was printed in ''Wyoming Agriculture,'' which is published by the Wyoming Farm Bureau Federation.

The editorial was written by Ken Hamilton. Ken is the executive vice president of the Wyoming Farm Bureau. I believe he does a terrific job of summing up the feelings of Wyoming people on the need to find practical ''real'' solutions to climate change.

I recommend it to my colleagues and ask unanimous consent that it be printed in the RECORD.

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

YOU CAN'T HAVE YOUR CAKE AND EAT IT TOO

(By Ken Hamilton, WyFB Executive Vice President)

One of the first little sayings you probably heard when you were growing up was that you can't have your cake and eat it too. Generally everyone will agree that this is self evident, but that doesn't stop Americans (and probably people in other countries) from always trying to have it both ways.

This is never more evident than the actions surrounding global warming. We are continually being bombarded by pronouncements about man caused global warming (it's hovering around 4 degrees with a 25 mph breeze blowing as I write this). When I was discussing this global warming issue with a friend, he said what people need to do is stop arguing with the activists over whether there is man caused global warming and start asking them what their solutions are going to be.

The more I thought about it the more I realized the whole global warming debate is absent any discussion of real solutions. We hear vague pronouncements about a greenhouse gas tax, but not much else. And none have enough details to fully analyze what the impact will be on people. There are numerous shows on television where people are talking about reducing their ''carbon footprint'', but most of these solutions revolve around still living the lifestyle you want while feeling good about using a material someone has pronounced as ''green.''

For instance, one of the new ''green'' materials for flooring in houses now is bamboo. Why someone feels this is greener than oak or pine is beyond me, but nevertheless apparently it is. The interesting thing is that while everyone is talking green, they are busy building a house that's twice the square footage of a generation ago. Our grandparents lived in a house where one or two rooms had heat part of the time. In today's modern homes there is heat running to every room, plus a television set in half of them, a minimum two-car garage (heated of course) and appliances that grandma couldn't even dream about. All of these, of course have some ''green'' marketing gimmick attached to them, so, you guessed it, people can live in even bigger houses while feeling good about doing their part.

But if meaningful curbs in greenhouse gases must occur as they profess, then there shouldn't be houses with two-car garages. You don't find those sorts of things in third world countries where the people's carbon footprint is less than here. Dishwashers must go as well as washing machines, dryers, and central heating. In third world countries where they don't have such a big carbon footprint, health clubs are not needed, nor are double ovens.

Arnold Schwarzenegger, who is in a panic over global warming, should stop driving around in his Humvee. In fact, to adequately address this issue, he should stop driving period.

But we don't see any of this happening and probably won't in the future. The people worried about global warming are still driving to work every day. They come home to heated and air conditioned homes, turn on

their 42-inch flat panel television while getting their meal delivered by a college freshman in a fuel-efficient ¾-ton four-wheel drive vehicle so they don't have to crank up one of those double ovens and hear the latest news about climate change. Recently a weather event caused a power outage in Arnold's state and not once did I hear him say, ''thank goodness, now we can start to do something meaningful about man caused global warming.''

Politicians and proponents of global warming only want to personally do something about global warming if it doesn't mean a cold house in the winter or a hot one in the summer. Health clubs will still be needed because people won't walk to work and will need to get some exercise somewhere. And pine forests will grow old, die and burn while folks feel good about their bamboo floors. Thinking all along that they are getting their cake and eating it too.

ADDITIONAL STATEMENTS

TRIBUTE TO FRANK WOODRUFF BUCKLES

• Mr. BOND. Mr. President, one of the most distinguished Americans living today is Mr. FRANK Woodruff Buckles. Born in Bethany, MO, on February 1, 1901, 2 years before Orville and Wilbur Wright made their historic first flight, Mr. Buckles, now 107, is the last living U.S. World War I veteran. He is truly a national treasure: Of the 2 million soldiers the United States sent to France in World War I, he is the lone survivor.

His life story is nothing short of amazing. In 1917, Mr. Buckles told his Army recruiter he was 21 years old and wanted to go to war. He was really just 16. Upon arrival in England, he convinced his superiors to send him forward to France where he would serve as an ambulance driver, carrying wounded allied troops to medical facilities.

When the war ended, Mr. Buckles was responsible for returning prisoners of war to Germany. He separated from the Army in 1920 after achieving the rank of corporal, but his service to the Nation continued as a civilian in the Philippines, where he worked for a U.S. shipping company. When the Japanese took Manila in 1942, Mr. Buckles was made a prisoner of war for the next 39 months, until his subsequent rescue by the 11th Airborne Division in 1945.

During his captivity, he developed chronic illnesses that still afflict him today. But there was no surrender then and there is no surrender today in Mr. Buckles.

Mr. Buckles remains witty and active. During a recent interview, he was asked about the circumstances surrounding his questionable enlistment into the Army. He replied with a chuckle, ''I didn't lie; nobody calls me a liar . . . but I may have increased my age.'' I also understand he does 50 sit ups and lifts weights daily. That is more physical activity than most men my age and even younger!

Today, before Memorial Day, I ask you to join me in honoring Mr. Buckles for all he has done for his country. The debt paid by Mr. Buckles and his fellow soldiers on behalf of future generations must never be forgotten. His life epitomizes patriotism and dedication to our nation. His incredible individual achievements and sacrifices, along with those of his fellow ''doughboys,'' deserve our ongoing admiration and thanks.•

REMEMBERING ELWOOD ''WOODY'' LECHAUSSE

• Mr. DODD. Mr. President, I wish today to honor the life and service of Elwood Lechausse of Manchester, CT, who died on Saturday May 17, 2008. Mr. Lechausse, known to many as ''Woody,'' enlisted in the U.S. Army in 1958, the day after his 18th birthday, and served with distinction in the 101st Airborne Division in both Turkey and South Vietnam.

Mr. Lechausse's service to his country did not end with his departure from the military in 1965. Following his honorable discharge from the Army, Mr. Lechausse dedicated himself to supporting his fellow veterans. For over 35 years, Mr. Lechausse was a tireless advocate for veterans issues, serving in leadership positions in more than two dozen veterans organizations, including serving as a senior member of the Department of Veterans Affairs Board of Trustees and the Secretary and Treasurer of the Connecticut Veterans Coalition from 1988–2002 and the Department of Connecticut Adjutant of the Disabled American Veterans.

Mr. Lechausse worked hard to educate his fellow Americans on the importance of honoring our veterans and recognizing the challenges they faced. Whether testifying before the U.S. Congress or speaking in the local classroom, Mr. Lechausse carried himself with a vigor and passion that spoke volumes of his dedication to advocating on behalf of his fellow veterans.

In 2003, Mr. Lechausse was named as a Connecticut Treasure for his work on behalf of Connecticut's veterans. In 2007, in recognition of the many lives he touched throughout nearly four decades of service, Mr. Lechausse was inducted into the Connecticut Veterans Hall of Fame.

Mr. Lechausse was a valuable friend of my office, and all of us in Connecticut owe a deep debt of gratitude to Mr. Lechausse for his service to both his country and his fellow veterans. On behalf of the Senate, I offer my most sincere condolences to Mr. Lechausse's wife, Kathryn, his children James and Ralph, and all those who were touched by his tremendous spirit. With Woody's passing, Connecticut and the Nation's veterans have lost a powerful voice that will be sorely missed.•

TRIBUTE TO LAUREL ZAKS

• Mr. ISAKSON. Mr. President, today I wish to honor in the RECORD of the Senate Laurel Zaks, an incredibly dedicated and universally beloved and respected civil servant who died on Friday, March 28, 2008. Laurel was a public health adviser at the Centers for Disease Control and Prevention in Atlanta, GA, with more than 14 years international and domestic work experience as a nutritionist.

Laurel started her career in 1992 as a nutritionist in Bucharest, Romania, with the Free Romania Foundation cross-training staff in three orphanages with medical clinics in health and nutrition issues. She then took a position as a community developer in Pop Wuj, Quetzeltenango, Guatemala, teaching primary health prevention strategies. She returned to the United States in 1996 where she developed and communicated policy and legislative strategy on domestic hunger for Congress and lobbied Congress on nutrition programs involving welfare reform. While in Washington, she also served as a pediatric dietitian with the Children's National Medical Center working on initial and followup nutritional assessments of HIV/AIDS and gastrointestinal disease patients.

In 1997, Laurel joined the Peace Corps volunteering in Ecuador, where she used her training as a dietitian to work with the Ministry of Health and indigenous organizations to develop training materials promoting maternal and child health and prevention of infectious diseases. Next Laurel moved to the city, Santa Domingo de Los Colorados, to work at the Center for Malnourished Children and in local communities where she served as the nutritionist/health educator working in an interdisciplinary medical team. During the last 2½ years of her Peace Corps service, she was instrumental in helping to design a new $400,000 Children's Center for Nutrition Recuperation, which served an average of 40 families daily.

Laurel joined CDC in 2001, 1 week after finishing her Peace Corps tour in Ecuador. Her enthusiasm for making a difference in global health affected all who knew her. She worked in many areas of global health work at CDC, including planning for development of sustainable global public health management, planning for a global pandemic influenza outbreak, and serving as a team member traveling to Botswana in response to an outbreak of infant diarrhea and severe malnutrition. In 2007, she was part of a team honored for rapidly assisting 20 countries around the world to apply for pandemic influenza preparedness funds.

Laurel was an active member and leader in the Atlanta chapter of the Returned Peace Corps Volunteers. She gave countless hours to charitable organizations domestically and abroad, including the Manna Food Bank in North Carolina and as a charter member of the Ecuadorian Rivers Institute in Ecuador. She received various awards for her volunteer work and was bestowed the North Carolina Governor's Award for Outstanding Volunteer Service in 1994.

Just as she did with the Peace Corps, Laurel's work over 7 years at CDC left a legacy of healthier people around the world. She inspired her coworkers to make a difference in global health, and all who knew her were struck by her compassion and the lasting contributions she made to children living in poverty around the world.●

TRIBUTE TO HAROLD ''SHORTY'' DORN

● Mr. SMITH. Mr. President, Albert Einstein once said, ''It is the supreme art of the teacher to awaken joy in creative expression and knowledge.'' I wish today to pay tribute to the life and legacy of an Oregonian who devoted his career to that supreme art and, in doing so, made a priceless contribution to the field of journalism.

Harold ''Shorty'' Dorn passed away in Reston, VA, last week at 83 years of age. Like countless others of his ''greatest generation,'' Shorty proudly wore the uniform of our country during World War II. He entered the U.S. Marine Corps in 1943 and served in the Pacific until the end of the war.

Upon returning home, Shorty earned his college degree and began nearly four decades of service as a college professor. Generations of Oregonians are fortunate because the vast majority of Shorty's career was spent at two of my State's outstanding institutions of higher learning—10 years at Eastern Oregon University in LaGrande and 23 years in the Department of Journalism at Oregon State University in Corvallis.

Professor Dorn was admired and respected by his students for his intelligence, his integrity, his warm humor, his trademark quips, and for the fact that he genuinely cared about them and their future. Shorty's commitment to his students did not end upon their graduation, and many continued to call on him for advice and counsel as they moved on in their careers.

Just as Shorty was devoted to his students, he was also devoted to his family—to his wife Ethel and to his two daughters, Jenna and Lorah. Upon retirement from Oregon State University, Shorty and Ethel moved to Reston, VA, so he could be closer to his daughters, who were both building distinguished careers of service. He also discovered that one of the best parts of retirement was the time he had to be a wonderful grandfather to his two grandsons, Jon and Ben.

Mr. President, it was once said that, ''In a completely rational society, the best of us would be teachers and the rest of us would have to settle for something less.'' Shorty Dorn was certainly one of the best of us, and I extend my condolences to his family and friends.●

IN HONOR OF THE HEARTLAND HONOR FLIGHT

● Mr. NELSON of Nebraska. Mr. President, today I honor veterans from my home State who are taking part in the first Nebraska Heartland Honor Flight to visit the National World War II Memorial.

The National World War II Memorial is a fitting tribute to those remarkable Americans who served in the deadliest conflict in human history. From the beaches of Normandy to the shores of Iwo Jima, these veterans served with courage, honor, and selflessness. In addition to their service, these same veterans returned home to reinvigorate the United States, producing what is still the largest and most vibrant economy in the world.

Soon after President Clinton authorized the American Battle Monuments Commission to establish a World War II memorial, a comprehensive national fundraising campaign began under the leadership of former Senator Bob Dole, the national chairman and a World War II veteran from Kansas. During this time, as Governor of the State of Nebraska, I realized it was imperative to secure funding as soon as possible so that a memorial could be built in time for our veterans to view it. Therefore, on June 1, 1998, I presented a check to Senator Bob Dole in the amount of $52,900 for every Nebraskan who served in World War II. Subsequently, every State that donated money followed our guideline.

There are now close to 14,000 World War II veterans living in the State of Nebraska. Unfortunately, nearly 2,100 of these brave servicemembers pass away each year. Many of these veterans have not been able to visit the memorial, which was dedicated by President George W. Bush on May 29, 2004, as they confront increasing difficulties with traveling due to their age. However, the Honor Flight Program has proven to be a reliable and capable partner in helping alleviate any obstacles veterans may face in traveling to Washington, DC. The Honor Flight Program, started in 2005 by retired Air Force captain and physician's assistant Earl Morse, now has 69 ''hubs'' in 30 States and has established a goal of transporting 12,000 World War II veterans to view the memorial in 2008.

Today, I am proud to say that the Heartland Honor Flight, Nebraska's own program, will conduct its inaugural flight, transporting more than 100 Nebraska World War II veterans to our Nation's Capital to visit the National World War II Memorial. I am greatly appreciative to the businesses and individuals who have contributed to this cause and am especially grateful to Dan and Cara Whitney, who provided nearly all the funding required for the cost of this initial flight.

This will be an emotional and reflective occasion for these veterans who look upon their service with deserved pride and remember those who died making the ultimate sacrifice for our country in the name of freedom. This memorial was long overdue for those who served our Nation in World War II, and I am confident it will become an enduring symbol in remembering the determination and sacrifice of our country's ''greatest generation.''●

TRIBUTE TO BRIGADIER GENERAL NEIL SMART

● Mr. SESSIONS. Mr. President, I wish today to pay tribute to BG Neil Smart, former battalion commander in the Battle of the Bulge in World War II and Director of the Veterans Administration Regional Office in Montgomery, AL. General Smart's service to this nation was long and distinguished.

Smart was commissioned a second lieutenant in the ROTC department of the University of Alabama in 1938. He left Active Duty as a lieutenant colonel and continued to serve in the National Guard. After General Smart completed his military service, he continued to serve the Nation's veterans in his work with the Veterans' Administration. He led the VA in Alabama in an exemplary manner from 1958 to 1974.

General Smart also loved to share stories of World War II. He felt this was a legacy his generation should leave younger generations. He really liked to tell the story about an unscheduled inspection he and his battalion had to undergo during World War II. The inspectors were GEN Dwight Eisenhower, GEN Omar Bradley, and British Prime Minister Winston Churchill.

This 94-year-old was also a key fundraiser in the efforts to build a memorial honoring the American effort in World War II. He was scheduled to visit the World War II Memorial with an Honor Flight group from the Prattville and Montgomery area of Alabama this past Saturday. My wife and I were there at the memorial to meet this group of heroes. When the group arrived, we were told the sad news that General Smart had died just hours before their departure.

So, Mr. President it is my honor to pay tribute to this great Alabamian and American. He served his State and Nation well.●

MESSAGE FROM THE HOUSE

At 1:36 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1464. An act to assist in the conservation of rare felids and rare canids by supporting and providing financial resources for the conservation programs of nations within the range of rare felid and rare canid populations and projects of persons with demonstrated expertise in the conservation of rare felid and rare canid populations.

H.R. 2649. An act to make amendments to the Reclamation Projects Authorization and Adjustment Act of 1992.

H.R. 2744. An act to amend the Family and Medical Leave Act of 1993 to clarify the eligibility requirements with respect to airline flight crews.

H.R. 2790. An act to amend title 38, United States Code, to establish the position of Director of Physician Assistant Services within the office of the Under Secretary of Veterans Affairs for Health.

H.R. 3681. An act to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to advertise in the national media to promote awareness of benefits under laws administered by the Secretary.

H.R. 3889. An act to amend title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a longitudinal study of the vocational rehabilitation programs administered by the Secretary.

H.R. 5554. An act to amend title 38, United States Code, to expand and improve health care services available to veterans from the Department of Veterans Affairs for substance use disorders, and for other purposes.

H.R. 5664. An act to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to update at least once every six years the plans and specifications for specially adapted housing furnished to veterans by the Secretary.

H.R. 5729. An act to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide comprehensive health care to children of Vietnam veterans born with Spina Bifida, and for other purposes.

H.R. 6048. An act to amend the Servicemembers Civil Relief Act to provide for the protection of child custody arrangements for parents who are members of the Armed Forces deployed in support of a contingency operation.

H.R. 6074. An act to amend the Sherman Act to make oil-producing and exporting cartels illegal and for other purposes.

H.R. 6081. An act to amend the Internal Revenue Code of 1986 to provide benefits for military personnel, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 32. Concurrent resolution honoring the members of the United States Air Force who were killed in the June 25, 1996, terrorist bombing of the Khobar Towers United States military housing compound near Dhahran, Saudi Arabia.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1464. An act to assist in the conservation of rare felids and rare canids by supporting and providing financial resources for the conservation programs of nations within the range of rare felid and rare canid populations and projects of persons with demonstrated expertise in the conservation of rare felid and rare canid populations; to the Committee on Environment and Public Works.

H.R. 2649. An act to make amendments to the Reclamation Projects Authorization and Adjustment Act of 1992; to the Committee on Energy and Natural Resources.

H.R. 2744. An act to amend the Family and Medical Leave Act of 1993 to clarify the eligibility requirements with respect to airline flight crews; to the Committee on Health, Education, Labor, and Pensions.

H.R. 2790. An act to amend title 38, United States Code, to establish the position of Director of Physician Assistant Services within the office of the Under Secretary of Veterans Affairs for Health; to the Committee on Veterans' Affairs.

H.R. 3681. An act to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to advertise in the national media to promote awareness of benefits under laws administered by the Secretary; to the Committee on Veterans' Affairs.

H.R. 3889. An act to amend title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a longitudinal study of the vocational rehabilitation programs administered by the Secretary; to the Committee on Veterans' Affairs.

H.R. 5554. An act to amend title 38, United States Code, to expand and improve health care services available to veterans from the Department of Veterans Affairs for substance use disorders, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 5664. An act to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to update at least once every six years the plans and specifications for specially adapted housing furnished to veterans by the Secretary; to the Committee on Veterans' Affairs.

H.R. 5729. An act to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide comprehensive health care to children of Vietnam veterans born with Spina Bifida, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 6048. An act to amend the Servicemembers Civil Relief Act to provide for the protection of child custody arrangements for parents who are members of the Armed Forces deployed in support of a contingency operation; to the Committee on Veterans' Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 32. Concurrent resolution honoring the members of the United States Air Force who were killed in the June 25, 1996, terrorist bombing of the Khobar Towers United States military housing compound near Dhahran, Saudi Arabia; to the Committee on Armed Services.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 3036. A bill to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes.

S. 3044. A bill to provide energy price relief and hold oil companies and other entities accountable for their actions with regard to high energy prices, and for other purposes.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 6074. An act to amend the Sherman Act to make oil-producing and exporting cartels illegal and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6321. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Lieutenant General John F. Sattler, United States Marine Corps, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–6322. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Lieutenant General David F. Melcher, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–6323. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Lieutenant General James M. Dubik, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–6324. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Vice Admiral Paul E. Sullivan, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

EC–6325. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, notification of the payment-in-kind compensation that has been negotiated with Germany for the return of U.S.-funded improvements at 30 small sites; to the Committee on Armed Services.

EC–6326. A communication from the Secretary of Defense, transmitting the withdrawal of the Secretary's previous certification of satisfactory service for a retired officer; to the Committee on Armed Services.

EC–6327. A communication from the Deputy Secretary of Defense for Logistics and Materiel Readiness, transmitting, pursuant to law, a report on budgeting for the sustainment of key military equipment for fiscal year 2009; to the Committee on Armed Services.

EC–6328. A communication from the Associate Director, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Final Rule Amending the Rough Diamonds Control Regulations to Add Two New Requirements Designed to Enhance the Collection of Statistics Related to Importations and Exportations of Rough Diamonds'' (RIN1505–AB95) received on May 20, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–6329. A communication from the Secretary, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Definition of Eligible Portfolio Company under the Investment Company Act'' (RIN3235–AJ31) received on May 20, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–6330. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Skowhegan, ME'' ((RIN2120–AA66) (Docket No. 07–ANE–94)) received on May 20, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6331. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Williamsport, PA'' ((RIN2120–AA66)(Docket No. 05–AEA–19)) received on May 20, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6332. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Lewistown, PA'' ((RIN2120–AA66)(Docket No. 07–AEA–14)) received on May 20, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6333. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Lexington, OK'' ((RIN2120–AA66)(Docket No. 08–ASW–1)) received on May 20, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6334. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Cameron Balloons Ltd. Models AX5–42, AX5–42 BOLT, AX6–56, AX6–56A, AX6–56Z, AX6–56 BOLT, AX7–65, AX7–65Z, AX7–65 BOLT, AX7–77, AX7–77A, AX7–77Z, AX7–77 BOLT, AX8–90 (S.1), AX8–90 (S.2), AX8–105 (S.1), AX8–105 (S.2), AX9–120 (S.1), AX9–120 (S.2), AX9–140, AX10–160 (S.1), AX10–160 (S.2), AX10–180 (S.1), AX10–180 (S.2), AX210, AX11–225, and AX11–250 Balloons'' ((RIN2120–AA64)(Docket No. 2008–CE–008)) received on May 20, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6335. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model DHC–8–102, DHC–8–103, DHC–8–106, DHC–8–201, DHC–8–202, DHC–8–301, DHC–8–311, and DHC–8–315 Airplanes, and Model DHC–8–400 Series Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–233)) received on May 20, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6336. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; EMBRAER Model EMB–120, –120ER, –120FC, –120QC, and –120RT Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–171)) received on May 20, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6337. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; ATR Model ATR42 and ATR72 Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–172)) received on May 20, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6338. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–111)) received on May 20, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6339. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737–300, –400, and –500 Series Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–187)) received on May 20, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6340. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–191)) received on May 20, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6341. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; General Electric Company CF34–8C1, –8C5, –8C5B1, –8E5, –8E5A1, and CF34–10E Series Turbofan Engines'' ((RIN2120–AA64)(Docket No. 2007–NE–36)) received on May 20, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6342. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Inseason Closure of the Commercial Fishery for Deep Water Grouper in the Gulf of Mexico for the 2008 Fishing Year'' (RIN0648–XG27) received on May 20, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6343. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Inseason Closure of the Commercial Fishery for Tilefishes in the Gulf of Mexico for the 2008 Fishing Year'' (RIN0648–XG71) received on May 20, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6344. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of Tilefish Permit Category B to Directed Tilefish Fishing'' (RIN0648–XF91) received on May 20, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6345. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch by Vessels in the Bering Sea and Aleutian Islands Trawl Limited Access Fishery in the Eastern Aleutian District of the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XH62) received on May 20, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6346. A communication from the Director of Civil Works, Department of the Army, transmitting, pursuant to law, the report of a rule entitled ''Compensatory Mitigation for Losses of Aquatic Resources'' (RIN0710–AA55) received on May 20, 2008; to the Committee on Environment and Public Works.

EC–6347. A communication from the Social Security Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Amendments to the Ticket to Work and Self-Sufficiency Program'' (RIN0960–AF89) received on May 20, 2008; to the Committee on Finance.

EC–6348. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the extension of waiver authority for Turkmenistan; to the Committee on Finance.

EC–6349. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2008–62—2008–68); to the Committee on Foreign Relations.

EC–6350. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed agreement for the export of defense articles to the Republic of Korea for the development of the A–50 Aircraft; to the Committee on Foreign Relations.

EC–6351. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed license for the export of revolvers being sold for end use by the Ministry of the Interior of Thailand; to the Committee on Foreign Relations.

EC–6352. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to U.S. contributions to the United Nations and its affiliated agencies during fiscal years 2006 and 2007; to the Committee on Foreign Relations.

EC–6353. A communication from the Director, Financial Management and Assurance, Government Accountability Office, transmitting, pursuant to law, a report relative to the Office's opinion on the financial statements of the Congressional Award Foundation; to the Committee on Homeland Security and Governmental Affairs.

EC–6354. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, a report relative to the use of student loan repayments by Federal agencies during fiscal year 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–6355. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of the designation of an acting officer for the position of U.S. Marshal for the Eastern District of Kentucky, received on May 20, 2008; to the Committee on the Judiciary.

EC–6356. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of the designation of an acting officer for the position of U.S. Marshal for the Western District of Michigan, received on May 20, 2008; to the Committee on the Judiciary.

EC–6357. A communication from the National Chairman, Naval Sea Cadet Corps, transmitting, pursuant to law, the Audit and Annual Report of Corps for fiscal year 2007; to the Committee on the Judiciary.

EC–6358. A communication from the Chair of the Board of Directors, Office of Compliance, transmitting, pursuant to Section 304(b)(3) of the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1384(b)(3), a general notice of proposed rulemaking as originally transmitted to the President pro tempore of the Senate on March 14, 2008, and printed in the RECORD on March 31, 2008; to the Committee on Rules and Administration.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–348. A resolution adopted by the Board of County Commissioners of Douglas County of the State of Nebraska expressing its opposition to any cutback of the National Institute of Correction's budget; to the Committee on the Judiciary.

POM–349. A resolution adopted by the Bakersfield City Council of the State of California expressing the Council's support of the Second Amendment to the U.S. Constitution; to the Committee on the Judiciary.

POM–350. A resolution adopted by the City Council of the City of Taft of the State of California expressing its support of the Second Amendment to the U.S. Constitution; to the Committee on the Judiciary.

POM–351. A joint resolution adopted by the House of Representatives of the State of Maine urging Congress to stop gasoline price manipulation and to close the Enron loophole; to the Committee on Commerce, Science, and Transportation.

JOINT RESOLUTION

Whereas, energy prices are reaching an all-time high in the United States and its citizens are especially hard hit in the State of

Maine, as our cold winters are long and many of our citizens use petroleum products to heat their homes; and

Whereas, diesel fuel prices for Maine truckers are causing severe economic hardship for this hardworking industry and gasoline fuel prices continue to rise, causing financial hardship to all Maine citizens; and

Whereas, it is apparent to the United States Congress and the citizens of Maine that some of the serious factors causing the high prices are excessive trading, speculation and, allegedly, manipulation of the commodities market; and

Whereas, the United States Congress passed, in December 2000, at the behest of the American energy company Enron, what is known as ''the Enron Loophole'' as part of the Commodity Futures Modernization Act of 2000, Appendix E of P.L. 106–554, 114 Stat. 2763, and this loophole allows electronic exchanges set up for large traders to operate without any federal oversight; and

Whereas, one of the fundamental purposes of futures contracts is to provide price discovery, and those selling or buying commodities in the spot market rely on futures prices to judge amounts to charge or pay for a commodity; and

Whereas, since the creation of the futures markets in the agricultural context decades ago, it has been widely understood that, unless properly regulated, the markets may distort the economic fundamental of price discovery through excessive speculation, fraud or manipulation, and the federal Commodity Exchange Act has long been praised as preventing those economic abuses; and

Whereas, a recent bipartisan United States Senate report, ''The Role of Market Speculation in Rising Oil and Gas Prices: The Need to Put the Cop Back on the Beat,'' stated that as much as 25% of the cost of a barrel of crude oil may be due to the cost of speculation and profiteering taking place in these unregulated commodities markets; and

Whereas, this speculation and profiteering unfairly causes many Maine citizens to pay excessive fuel and gas prices: Now, therefore, be it

Resolved, That We, your Memorialists, on behalf of the people we represent, respectfully and strongly urge and request that the United States Congress rein in this excessive energy commodities speculation and enact meaningful reforms of the Commodities Futures Trading Commission, including closing ''the Enron Loophole''; and be it further

Resolved, That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to President of the United States Senate and to the Speaker of the United States House of Representatives, and to each Member of the Maine Congressional Delegation.

POM–352. A resolution adopted by the State Board of Education of the State of Mississippi urging Congress to support the passage of the Secure Rural Schools and Community Self-Determination Act; to the Committee on Energy and Natural Resources.

RESOLUTION

Whereas, in December 2000, the Secure Rural Schools and Community Self-Determination Act, a Federal act, was signed into law; and

Whereas, the Secure Rural Schools and Community Self-Determination Act provides federal funds to school districts with national forest lands located within the school districts boundaries; and

Whereas, 36 school districts have substantial tracts of land in public ownership which can neither be developed nor taxed to generate revenue from economic activity or taxation; and

Whereas, these school districts have United States National Forests within its boundaries and have received critical funds for schools based on revenues generated from these forests; and

Whereas, the payments provided to these school districts have been a consistent and necessary source of funding for the schools, teachers and students; and

Whereas, in December 2007, the United States Congress removed the reauthorization of the Secure Rural Schools and Community Self-Determination Act from the Energy Legislation to which it was attached. This legislation was subsequently passed and signed into law without reauthorization for the Secure Rural and Community Self-Determination Act; and

Whereas, the funding provided through the Secure Rural Schools and Community Self-Determination Act will significantly contribute to the local economy of these school districts by providing the necessary funds for schools and roads, which is vital for sustained economic development; and Schools and Community Self-Determination Act; and

Whereas, these school districts depend on the funding from the Secure Rural Schools and Community Self-Determination Act and unless the funding is secured through legislation as deemed appropriate by the Mississippi congressional delegation, these school districts will lose critical funding that it has received for decades: Now, therefore, be it

Resolved by the state board of education of the state of Mississippi, That we, the members of the State Board of Education of the State of Mississippi, respectfully request that the United States Congress pass the Secure Rural Schools and Community Self-Determination Act so that these Mississippi school districts may continue to adequately maintain schools and sustain economic development in the state. Be it further

Resolved, That the Secretary of the State Board of Education is directed to transmit copies of this resolution to President George W. Bush, the Secretary of the United States Senate, the Clerk of the United States House of Representatives, the Governor of the State of Mississippi, each member of the, Mississippi congressional delegation, the Executive Director of the National Association of State Boards of Education, and that copies be made available to members of the Capitol Press Corps.

POM–353. A resolution adopted by the Georgia State Senate urging Congress to withdraw the U.S. from the Security and Prosperity Partnership of North America and any other agreement that seeks the economic merger of the U.S. with any other country; to the Committee on Foreign Relations.

SENATE RESOLUTION NO. 827

Whereas, President George W. Bush announced the formation of the Security and Prosperity Partnership of North America with the nations of Mexico and Canada on March 23, 2005; and

Whereas, at a news conference on the same day, President Bush said: ''So that the vision that you asked about in your question as to what kind of union might there be, I see one based upon free trade, that would then entail commitment to markets and democracy, transparency, rule of law''; and

Whereas, the gradual evolution of a North American partnership into some ''kind of union'' or economic merger; of the United States, Mexico, and Canada would be a direct threat to the Constitution and national independence of the United States and would imply an eventual end to national borders within North America; and

Whereas, on March 31, 2006, President Bush at Cancun, Mexico, celebrated the fIrst anniversary of the Security and Prosperity Partnership, confirmed by a White House news release on that same date; and

Whereas, this trilateral partnership to develop any kind of North American merger has never been presented to Congress as an agreement or treaty and has had virtually no congressional oversight; and

Whereas, state and local governments throughout the United States would be negatively impacted by the Security and Prosperity Partnership of North America process, such as the ''open borders'' vision of the Security and Prosperity Partnership, eminent domain takings of private property along planned superhighways, and increased law enforcement problems along those superhighways: Now, therefore, be it

Resolved by the Senate that the members of this body urge the United States Congress, especially the congressional delegation from Georgia, to use all its efforts, energies, and diligence to withdraw the United States from any further participation in the Security and Prosperity Partnership of North America and any similar bilateral or multilateral activity, however named, that seeks to advance, authorize, or fund or in any way promote the creation of any structure or relationship to accomplish any form of North American integration or merger. Be it further

Resolved that the Secretary of the Senate is authorized and directed to transmit an appropriate copy of this resolution to Vice President Dick Cheney, Speaker of the United States House of Representatives Nancy Pelosi, and each member of the Georgia congressional delegation.

POM–354. A resolution adopted by the Senate of the State of Massachusetts urging Congress to encourage Turkey to respect the religious rights of all people; to the Committee on Foreign Relations.

RESOLUTION

Whereas, the Theological School of Halki, located on the Island of Heybeliada in the Republic of Turkey, was preceded by the Monastery of the Trinity and was characterized as a stadium of wisdom because of its library and those drawn to study on its premises; and

Whereas, the Monastery was rebuilt and rededicated on September 23, 1844, as an Orthodox School of theology, which nurtured educators and scholars from around the world for 127 years and served the needs of the international academic community; and

Whereas, the Theological School of Halki, labeled as a seminary, was closed in 1971 by turkish authorities pursuant to a law requiring higher education and military training to be controlled by the Turkish State; and

Whereas, Turkish law further requires that the ecumenical patriarch of the Orthodox Church and all clergy, faculty and students of the Theological School of Halki be citizens of turkey, a requirement that greatly obstructs the prosperity of religious institutions; and

Whereas, before its closure, the Theological School of Halki was the only educational institution for Orthodox Christian leadership in Turkey; and

Whereas, strict limitations have been imposed by the turkish government that restrict access to the school's library, a collection of some of the rarest and most precious works in the world; and

Whereas, because of these limitations, people are prevented from conducting meaningful scholarly research; and

Whereas, the ecumenical patriarchate in Turkey, where the canonical structure of the

Christian Orthodox Church was established, is the spiritual center for more than 300,000,000 Orthodox Christians worldwide, including approximately 5,000,000 Orthodox Christians in the United States and 150,000 Orthodox Christians in the commonwealth; and

Whereas, the closure of the Theological School of Halki has adversely impacted the ecumenical patriarchate's ability to educate its clergy and, ultimately, to select its next ecumenical patriarch; and

Whereas,, the closure has come to symbolize repression of religious freedom for all faiths in Turkey; and

Whereas, freedom of religion has long been recognized as a right which has contributed significantly to the establishment and growth of the citizens of the commonwealth and is central to the ideals of all people: Now, therefore, be it

Resolved, That the Massachusetts Senate hereby memorializes the President of the United States, the Congress of the United States and the United States Department of State to take all actions necessary to encourage the Government of Turkey to adopt and uphold international standards for the protection of human rights, to reopen the Theological School of Halki in order to continue religious training, to eliminate all forms of discrimination in accordance with the ideals associated with the European Union, its member states and all liberal democracies, particularly those based on race and religion, and to respect the human rights and property of the ecumenical patriarchate by safeguarding religious freedom for all; and be it further

Resolved, That a copy of these resolutions be transmitted forthwith by the clerk of the Senate to the President of the United States, the Secretary of State of the United States and the Presiding Officer of each branch of Congress and to the members thereof from the commonwealth.

POM–355. A resolution adopted by the House of Representatives of the State of Louisiana urging Congress to take such actions as are necessary to create a national catastrophe fund; to the Committee on Homeland Security and Governmental Affairs.

HOUSE RESOLUTION NO. 30

Whereas, the hurricane seasons of 2004 and 2005 were startling reminders of both the human and economic devastation that hurricanes, flooding, and other natural disasters can cause; and

Whereas, creation of a federal catastrophe fund is a comprehensive, integrated approach to help better prepare and protect the nation from natural catastrophes, such as hurricanes, tornadoes, wildfires, snowstorms, and earthquakes; and

Whereas, the current system of responses to catastrophes leaves many people and businesses at risk of being unable to replace what they lost, wastes tax dollars, raises insurance premiums, and leads to shortages of insurance needed to sustain our economy; and

Whereas, creation of a federal catastrophe fund would help stabilize insurance markets following a catastrophe and help steady insurance costs for consumers while making it possible for private insurance to be written in catastrophe-prone areas; and

Whereas, a portion of the premiums collected by insurance companies could be deposited into such a fund which could be administered by the United States Treasury and grow tax free; and

Whereas, a portion of the interest earnings of the fund could be dedicated to emergency responder efforts and public education and mitigation programs; and

Whereas, the federal catastrophe fund would operate as a ''backstop'' and could only be accessed when private insurers and state catastrophe funds have paid losses in excess of a defined threshold; and

Whereas, utilizing the capacity of the federal government would help smooth out fluctuations which consumers currently experience in insurance prices and availability because of exposure to large catastrophic losses and would provide better protection at a lower price; and

Whereas, when there is a gap between the insurance protection consumers buy and the damage caused by a major catastrophe, taxpayers across the country pay much of the difference, as congressional appropriations of billions of dollars for the after-the-fact disaster relief in the aftermath of Hurricane Katrina demonstrated; and

Whereas, on November 8, 2007, the United States House of Representatives passed the Homeowners' Defense Act of 2007 (H.R. 3355) that would help ensure that individuals and communities destroyed by natural catastrophes have the resources necessary to repair, rebuild, and recover in the aftermath of massive hurricanes, earthquakes, or other natural events; and

Whereas, the Homeowners' Defense Act of 2007 was sponsored by Florida Representatives Ron Klein, Tim Mahoney, and Ginny Brown-Waite and nearly four dozen cosponsors from around the country including then Congressman Bobby Jindal, now governor of the state of Louisiana; and

Whereas, the Senate should pass similar legislation that will integrate the approach of H.R. 3355 with H.R. 91, which includes the Consumer Hurricane and Earthquake Loss Protection Fund and earlier legislative initiatives that will include the Consumer HELP Fund. Therefore, be it

Resolved, That the House of Representatives of the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to create a national catastrophe fund; be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–356. A resolution adopted by the Legislature of the State of Nebraska urging Congress to continue its efforts to account for all of the missing people from the Vietnam War; to the Committee on Veterans' Affairs.

LEGISLATIVE RESOLUTION NO. 376

Whereas, the official United States military dates for the Vietnam War are August 5, 1964, to January 27, 1973; and

Whereas, over 3,403,000 people served in the United States military in Southeast Asia; and

Whereas, over 2,594,000 people served in the United States military in South Vietnam; and

Whereas, over 58,209 people from the United States died as a result of the war in Southeast Asia and Vietnam from November 1, 1955, the commencement of the military Assistance Advisory Group, to May 15, 1975, when the last United States military member left Southeast Asia; and

Whereas, over 396 Nebraskans died as a result of the Vietnam War; and

Whereas, over 94 Omaha residents died as a result of the Vietnam War, including the following:

Name, Service, Date of Death or Date Declared Dead

Adolf, Larry Eugene, USMC, May 9, 1968

Anderson, Warren Charles, ARMY, August, 15, 1970

Backhaus, Steven Eugene, USMC, December 21, 1969

Bailey, Allen Charles, USMC, March 4, 1966

Bailey, Byrle Bennett, USMC, May 25, 1969

Barney, Terence Edward, USMC, March 17, 1969

Bazar, Paul Thomas, USMC, April 21, 1969

Becker, Michael Paul, USMC, June 7, 1968

Bigley, Richard Ray, USMC, November 22, 1965

Biscamp, Marvin Lynn, ARMY, April 12, 1972

Bosiljevac, Michael Joseph, USAF, Unknown date, 1978

Bragg, Paul Joseph, USMC, July 15, 1969

Buckles, Donald Ray, ARMY, January 28, 1968

Bull, Kenneth R., ARMY, April 17, 1969

Caldwell, Larry Gail, ARMY, May 9, 1968

Cole, Muril Steven, USMC, October 1, 1969

Crayne, Kenneth Eugene, ARMY, December 1, 1970

Cunningham, Richard Ira, ARMY, April 27, 1969

Davis, John Clinton, ARMY, April 28, 1969

Doolittle, Jon Hiliare, ARMY, May 6, 1970

Farrell, Timothy Charles, ARMY, February 11, 1970

Flournoy, James Kaiser, USMC, March 31, 1968

Foley, James Williams, ARMY, January 26, 1968

Fous, James William, ARMY, May 14, 1968

Garcia, Jerry Frank, USMC, April 17, 1968

Gerry, Ronald Lee, ARMY, January 5, 1966

Goc, Paul Stephen Jr., ARMY, June 14, 1969

Griffin, Gerald Charles, NAVY, October 6, 1962

Gronborg, Martin Wayne Jr., ARMY, September 4, 1971

Haakenson, Robert W. Jr., NAVY, October 24, 1972

Hansen, Robert Greg, ARMY, August 7, 1970

Hiley, Thomas Charles, ARMY, January 31, 1968

Hunter, Henry David, ARMY, July 8, 1969

Iler, Kenneth Marvin, USMC, May 29, 1968

Jackson, Eddie Lee Jr., ARMY, November 4, 1968

Johnson, Gary Lee, ARMY, June 18, 1971

Johnson, Lane Carston, ARMY, November 11, 1968

Kavulak, John Henry, USMC, September 21, 1967

Keith, Miguel, USMC, May 8, 1970

Keller, Kenneth Lavern, ARMY, February 11, 1970

Kelley, Harvey Paul, ARMY, November 20, 1969

Kier, Larry Gene, ARMY, September 12, 1978

Klabunde, Arthur John Jr., USMC, January 25, 1968

Klabunde, John Paul, USMC, September 6, 1967

Kocanda, Jerry Joseph III, ARMY, May 21, 1969

Konwinski, Ronald Eugene, USMC, February 6, 1968

Kotrc, James Carl, ARMY, July 29, 1969

Kudlacek, Edwin Allen, ARMY, September 28, 1971

Laird, James Alan, ARMY, October 31, 1970

Lambooy, John Patrick, ARMY, September 19, 1969

Lamere, Anthony John, ARMY, July 1, 1971

Leighton, Earl Laroy, NAVY, January 17, 1969

Luedke, William, ARMY, October 28, 1968

Marchand, Wayne Ellsworth, ARMY, April 8, 1962

Marsh, Alan Richard, ARMY, June 2, 1967

Maxwell, Samuel Chapman, USAF, June 21, 1978

McAllister, Cameron Trent, ARMY, September 7, 1969

Mickna, John Ronald, ARMY, February 23, 1967

Moore, Daniel Eugene Jr., NAVY, February 22, 1967
Morrison, James Anton, ARMY, September 12, 1967
Mueller, Steven Wayne, USMC, December 22, 1967
Murphy, John Patrick, ARMY, July 22, 1968
Nachtigall, David Joseph, ARMY, February 23, 1970
Oonk, Lester Eugene, USAF, August 13, 1970
Perrin, Richard Thomas, ARMY, June 27, 1966
Pinegar, William Dennis, ARMY, October 6, 1965
Poese, Nigel Frederick, ARMY, March 20, 1969
Radil, Ronald Ludwig, ARMY, October 14, 1967
Ross, Milton Alan, ARMY, February 9, 1969
Salyards, Patrick John, USMC, December 9, 1966
Sanders, Mack Royal, ARMY, May 12, 1966
Sandstedt, Daniel Joseph, ARMY, June 19, 1967
Schmidt, Gary Russell, ARMY, September 25, 1967
Shelton, Craig Stephen, USMC, January 25, 1967
Shrader, Harold William, ARMY, August 9, 1965
Shuey, Glenn Colin, USMC, December 20, 1969
Skavaril, Thomas Joseph, ARMY, January 5, 1968
Smith, Michael Francis, ARMY, April 28, 1968
Smith, Paul Richard, ARMY, July 6, 1963
Smith, Thomas Leroy, ARMY, September 11, 1969
Sobolik, Karl David, USAF, November 26, 1966
Solomon, Wilfred L. Sr., ARMY, February 8, 1968
Spencer, Frank III, ARMY, January 23, 1970
Stolinski, James Francis, ARMY, March 26, 1968
Straus, Allen Arthur, ARMY, May 6, 1968
Utts, William Warner, ARMY, March 19, 1969
Waite, Donald Steven, ARMY, February 9, 1968
Wigton, Philip Gregory, USMC, May 9, 1968
Wilkinson, Harland Lyle, ARMY, September 26, 1969
Wilson, Michael Joseph, USMC, May 12, 1967
Wojtkiewicz, Ronald Joseph, ARMY, April 10, 1968
Wolf, Jack Morse, ARMY, March 28, 1968
Zabrowski, Louis, ARMY, December 27, 1969
Ziehe, Gerald Dean, USAF, October 21, 1968; and

Whereas, at least 1,763 United States military service members serving in Southeast Asia remain unaccounted for, including the following 19 from Nebraska:

Name, Service, Hometown, Date of Incident
Biber, Gerald Mack, ARMY, Benkelman, April 22, 1961
Booze, Delmar George, USMC, Papillion, January 24, 1966
Brennan, Herbert Owen, USAF, O'Neill, November 26, 1967
Brenning, Richard David, NAVY, Lincoln, July 26, 1969
Confer, Michael Steele, NAVY, McCook, October 10, 1966
Cordova, Robert James, NAVY, Boys Town, January 27, 1968
Grella, Donald Carroll, ARMY, Laurel, December 28, 1965
Kahler, Harold, USAF, Lincoln, June 14, 1969
Klingner, Michael Lee, USAF, McCook, April 6, 1970
Magers, Paul Gerald, ARMY, Sidney, June 1, 1971
Ogden, Howard Jr., USMC, Omaha, October 18, 1967
Robinson, Larry Warren, USMC, Randolph, January 5, 1970
Scheurich, Thomas Edwin, NAVY, Norfolk, March 1, 1968
Smiley, Stanley Kutz, NAVY, Sidney, July 20, 1969
Sprick, Doyle, USMC, Fort Calhoun, January 24, 1966
Stafford, Ronald Dean, USAF, Oxford, November 21, 1972
Stark, Willie E., ARMY, Omaha, December 2, 1966
Thomas. Daniel W., USAF, Danbury, July 6, 1971
Zich, Larry Alfred, ARMY, Lincoln, April 3, 1972; and

Whereas, at least 150,332 of the United States military service members were wounded during their service in Southeast Asia; and

Whereas, countless numbers returned home with physical and psychological injuries, including post-traumatic stress disorder (PTSD), that were not treated; and

Whereas, countless numbers remain homeless and in despair: Now, therefore, be it

Resolved, by the members of the one hundredth legislature of Nebraska, second session:

1. That the Legislature urges the President of the United States and the United States Congress to continue efforts to account for all of the missing people from the Vietnam War, return any remains to their families, and continue to improve efforts to aid homeless, drug-dependent, and wounded veterans, including those afflicted with post-traumatic stress disorder.

2. That the Legislature acknowledges that, in the past, a less than grateful attitude was shown towards Vietnam Veterans and now belatedly recognizes their service, sacrifice, and suffering.

3. That the Legislature hereby commemorates the thirty-fifth anniversary of the end of the Vietnam War and the twenty-fifth anniversary of the healing Vietnam Veterans Memorial in Washington, DC, by extending to all those who served in Southeast Asia and in Vietnam a long overdue, ''Welcome Home, Vietnam Veteran, Welcome Home!''.

4. That the Clerk of the Legislature send a copy of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to the United States Congressional delegation representing the State of Nebraska.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. MURKOWSKI:

S. 3045. A bill to establish the Kenai Mountains-Turnagain Arm National Forest Heritage Area in the State of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BROWNBACK (for himself, Mr. CASEY, Mr. COLEMAN, Mr. SPECTER, and Mr. INHOFE):

S. 3046. A bill to amend the Federal Food, Drug, and Cosmetic Act to create a new conditional approval system for drugs, biological products, and devices that is responsive to the needs of seriously ill patients, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID (for Mr. OBAMA (for himself, Mr. LUGAR, Mr. SANDERS, and Mr. BROWN)):

S. 3047. A bill to provide for the coordination of the Nation's science, technology, engineering, and mathematics education initiatives; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BROWN:

S.J. Res. 33. A joint resolution recognizing the efforts of the Ohio Department of Mental Health and the Ohio Department of Alcohol and Drug Addiction Services to address the stigma associated with mental health and substance use disorders; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. DOLE:

S. Res. 572. A resolution calling upon the Court of Appeal for the Second Appellate District of California to uphold the fundamental and constitutional right of parents to direct the upbringing and education of their children; to the Committee on the Judiciary.

By Mr. MARTINEZ (for himself, Mr. MENENDEZ, Mr. ENSIGN, Mr. NELSON of Florida, Mr. COLEMAN, and Mr. LIEBERMAN):

S. Res. 573. A resolution recognizing Cuba Solidarity Day and the struggle of the Cuban people as they continue to fight for freedom; considered and agreed to.

By Mr. REID (for Mrs. CLINTON (for herself and Mrs. MURRAY)):

S. Con. Res. 83. A concurrent resolution supporting the goals and ideals of National Better Hearing and Speech Month; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 11

At the request of Mr. INHOFE, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 11, a bill to provide liability protection to volunteer pilot nonprofit organizations that fly for public benefit and to the pilots and staff of such nonprofit organizations, and for other purposes.

S. 38

At the request of Mr. DOMENICI, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 38, a bill to require the Secretary of Veterans Affairs to establish a program for the provision of readjustment and mental health services to veterans who served in Operation Iraqi Freedom and Operation Enduring Freedom, and for other purposes.

S. 755

At the request of Mr. SCHUMER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 755, a bill to amend title XIX of the Social Security Act to require States to provide diabetes screening tests under the Medicaid program for adult enrollees with diabetes risk

factors, to ensure that States offer a comprehensive package of benefits under that program for individuals with diabetes, and for other purposes.

S. 777

At the request of Mr. CRAIG, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 777, a bill to repeal the imposition of withholding on certain payments made to vendors by government entities.

S. 1108

At the request of Mr. SMITH, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1108, a bill to amend title XVIII of the Social Security Act to provide a special enrollment period for individuals who qualify for an income-related subsidy under the Medicare prescription drug program and to provide funding for the conduct of outreach and education with respect to the premium and cost-sharing subsidies under such program, and for other purposes.

S. 1210

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1210, a bill to extend the grant program for drug-endangered children.

S. 1233

At the request of Mr. AKAKA, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1233, a bill to provide and enhance intervention, rehabilitative treatment, and services to veterans with traumatic brain injury, and for other purposes.

S. 1259

At the request of Mr. CASEY, his name was added as a cosponsor of S. 1259, a bill to amend the Foreign Assistance Act of 1961 to provide assistance for developing countries to promote quality basic education and to establish the achievement of universal basic education in all developing countries as an objective of United States foreign assistance policy, and for other purposes.

S. 1384

At the request of Mr. AKAKA, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1384, a bill to amend title 38, United States Code, to repeal authority for adjustments to per diem payments to homeless veterans service centers for receipt of other sources of income, to extend authorities for certain programs to benefit homeless veterans, and for other purposes.

S. 1951

At the request of Mr. BAUCUS, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1951, a bill to amend title XIX of the Social Security Act to ensure that individuals eligible for medical assistance under the Medicaid program continue to have access to prescription drugs, and for other purposes.

S. 1954

At the request of Mr. BAUCUS, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1954, a bill to amend title XVIII of the Social Security Act to improve access to pharmacies under part D.

S. 2063

At the request of Mr. GREGG, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2063, a bill to establish a Bipartisan Task Force for Responsible Fiscal Action, to assure the economic security of the United States, and to expand future prosperity and growth for all Americans.

S. 2161

At the request of Mr. JOHNSON, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2161, a bill to ensure and foster continued patient safety and quality of care by making the antitrust laws apply to negotiations between groups of independent pharmacies and health plans and health insurance issuers (including health plans under parts C and D of the Medicare Program) in the same manner as such laws apply to protected activities under the National Labor Relations Act.

S. 2303

At the request of Mr. BURR, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 2303, a bill to amend section 435(o) of the Higher Education Act of 1965 regarding the definition of economic hardship.

S. 2369

At the request of Mr. BAUCUS, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S. 2369, a bill to amend title 35, United States Code, to provide that certain tax planning inventions are not patentable, and for other purposes.

S. 2408

At the request of Mr. KERRY, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 2408, a bill to amend title XVIII of the Social Security Act to require physician utilization of the Medicare electronic prescription drug program.

S. 2504

At the request of Mr. NELSON of Florida, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. 2504, a bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes.

S. 2511

At the request of Mr. LEAHY, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 2511, a bill to amend the grant program for law enforcement armor vests to provide for a waiver of or reduction in the matching funds requirement in the case of fiscal hardship.

S. 2565

At the request of Mr. BIDEN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2565, a bill to establish an awards mechanism to honor exceptional acts of bravery in the line of duty by Federal law enforcement officers.

S. 2619

At the request of Mr. COBURN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 2619, a bill to protect innocent Americans from violent crime in national parks.

S. 2666

At the request of Ms. CANTWELL, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 2666, a bill to amend the Internal Revenue Code of 1986 to encourage investment in affordable housing, and for other purposes.

S. 2668

At the request of Mr. KERRY, the names of the Senator from New Mexico (Mr. DOMENICI), the Senator from Arkansas (Mrs. LINCOLN), the Senator from South Carolina (Mr. DEMINT) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 2668, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 2766

At the request of Mr. NELSON of Florida, the names of the Senator from Minnesota (Ms. KLOBUCHAR) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 2766, a bill to amend the Federal Water Pollution Control Act to address certain discharges incidental to the normal operation of a recreational vessel.

S. 2827

At the request of Mr. INHOFE, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 2827, a bill to repeal a requirement with respect to the procurement and acquisition of alternative fuels.

S. 2828

At the request of Mr. BAUCUS, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2828, a bill to require the Secretary of the Treasury to mint and issue coins commemorating the 100th anniversary of the establishment of Glacier National Park, and for other purposes.

S. 2844

At the request of Mr. LAUTENBERG, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 2844, a bill to amend the Federal Water Pollution Control Act to modify provisions relating to beach monitoring, and for other purposes.

S. 2934

At the request of Mr. MENENDEZ, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 2934, a bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide a plot allowance for spouses and children of certain veterans who are buried in State cemeteries.

S. 3040

At the request of Mr. LAUTENBERG, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 3040, a bill to amend the Toxic Substances Control Act to reduce the exposure of children, workers, and consumers to toxic chemical substances.

S. RES. 569

At the request of Mr. INOUYE, his name was added as a cosponsor of S. Res. 569, a resolution expressing the sense of the Senate regarding the earthquake that struck Sichuan Province of the People's Republic of China on May 12, 2008.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MURKOWSKI:

S. 3045. A bill to establish the Kenai Mountains-Turnagain Arm National Forest Heritage Area in the State of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, the Kenai Mountains-Turnagain Arm National Forest Heritage Area would be the first Heritage Area in Alaska, and one of a few Heritage Areas in the West. Our proposal encompasses the wide mountainous corridor that was the major gateway to pioneer settlement of the State, extending from Seward through the Kenai Mountains to the upper Turnagain Arm. Here mountain trails developed by indigenous First Alaskans became prospectors' trails and, eventually, the roads and railroad used by the pioneers who settled the last frontier of the United States. Transportation, resource development and settlement in this rugged, often-treacherous landscape provide a powerful reminder of the fortitude and resourcefulness of the pioneers of America's Last Frontier.

Historic communities that were developed around mining and early transportation routes have preserved much of their original character. A visit to the Hope Townsite is a visit to a living community that still resembles the gold rush town that it was before the rush to the Klondike. The City of Whittier provides a glimpse of our Nation's intense effort to develop an ice-free port to supply troops who were defending our boundaries in Alaska during World War II. As in the early days, all the signs of human activity in the corridor are dwarfed by the sweeping landscapes of the region, by the magnificence of the mountains, glaciers and tidal fjords and the dominance and power of nature. Turnagain Arm, once a critical transportation link, has one of the world's greatest tidal ranges.

This Heritage Area proposal, truly a grass roots product, began in 1997 when the Kenai Peninsula Historical Association asked a group of local community leaders to reach out and tell people about Heritage Areas. They were successful in garnering support from communities throughout the corridor. These local folks have extensive knowledge of the resources; they are personally acquainted with the area; they understand the ruggedness and the beauty of the land, and certainly appreciate the potential economic value this designation would bring to the area.

In 2000 these community leaders organized the Kenai Mountains-Turnagain Arm National Heritage Area Corridor Communities Association as a non-profit organization with a board of directors made up of corridor community representatives. Later a congressionally designated grant made it possible for the new non-profit to serve as a local coordinating entity and prove its ability to plan and accomplish projects consistent with Heritage Area purposes. Through their management of the grant, historic structures were preserved, a small museum has opened, parks and pavilions with historic interpretation have been constructed, oral histories have been collected from oldtimers and recorded, and an excellent book on corridor history has been published.

Since the corridor is within the western part of the Chugach National Forest, the Association has asked to put this Heritage Area under the Secretary of Agriculture. The bill provides for coordination with the Secretaries of Interior and includes the same components, structure and national recognition as Heritage Areas under the Secretary of Interior. Similar components assure that the Heritage Area will not impact private property rights or public land management. A Memorandum of Understanding between the Secretaries of Agriculture and Interior would establish coordination at the Secretarial level. Passage of this bill will be an excellent way to commemorate the recent centennial of the Chugach National Forest.

I am proud to lend my support to this grassroots effort by introducing legislation today to designate the Kenai Mountains-Turnagain Arm in Alaska as our most northern and western National Heritage Area, the first National Heritage Area in Alaska and the first National Forest Heritage Area to be assisted by the U.S. Forest Service.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3045

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Kenai Mountains-Turnagain Arm National Forest Heritage Area Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Kenai Mountains-Turnagain Arm transportation corridor—

(A) is a major gateway to Alaska;

(B) includes a range of transportation routes used by—

(i) indigenous people; and

(ii) the pioneers that settled the last frontier of the United States;

(C) is located in the heart of the Chugach National Forest, which was established by presidential proclamation on July 23, 1907, by Theodore Roosevelt; and

(D) includes a historically significant segment of the Iditarod Trail connecting Seward and Nome, which was—

(i) scouted by the Alaska Road Commission in 1908; and

(ii) designated as the Iditarod National Historic Trail in 1978;

(2) the cultural landscape formed by indigenous people and by settlement, transportation, and modern resource development in the rugged and often treacherous natural setting of the transportation corridor provides a powerful testimony to the human fortitude, perseverance, and resourcefulness of the people who—

(A) settled the frontier; and

(B) represent the proudest heritage of the United States;

(3) the natural history and scenic splendor of the transportation corridor are equally outstanding;

(4) the transportation corridor includes vistas of the power of nature, such as evidence of earthquake subsidence, recent avalanches, retreating glaciers, and tidal action along Turnagain Arm, which has the second greatest tidal range in the world;

(5) there is a national interest in recognizing, preserving, promoting, and interpreting the resources of the transportation corridor;

(6) the Kenai Mountains-Turnagain Arm region is—

(A) geographically and culturally cohesive; and

(B) defined by a corridor of historic routes, trails, water, railroads, and roadways through a distinct landscape of mountains, lakes, and fjords;

(7) the region played a unique role as a portal and transportation corridor through which indigenous people, explorers, missionaries, gold miners, cannery workers, big game hunters, homesteaders, foresters, railroad workers, military personnel, and petroleum developers traveled into southcentral and interior Alaska as part of the waves of travel that characterized the history of the United States;

(8) the region exhibits a high degree of integrity with vast tracks of rugged, undeveloped areas and natural scenery that still look much as the area did to the original inhabitants, the indigenous people, and early explorers and pioneers of the region;

(9) studies that led to the designation of the Iditarod National Historic Trail, the Seward Highway All American Road, and the Alaska Railroad National Scenic Railroad—

(A) determined the national significance of separate transportation routes traversing the region; and

(B) illustrate the national significance of heritage resources in the region;

(10) designation of the transportation corridor as a national heritage area—

(A) provides for a comprehensive interpretation of human history in the wide transportation corridor through the Kenai Mountains and upper Turnagain Arm, including early Native trade routes, historic waterways, mining trails, historic communities, and the 3 designated routes of national significance referred to in paragraph (9);

(B) recognizes the national significance of the Kenai Mountains-Turnagain Arm transportation corridor, including—

(i) the historic and modern resource development of the transportation corridor; and

(ii) the cultural, natural, and recreational resources and landscapes of the transportation corridor; and

(C) would provide assistance to local communities, Indian tribes, and residents of the transportation corridor in—

(i) preserving and interpreting cultural and historic resources; and

(ii) fostering cooperative planning and partnerships;

(11) an additional feasibility study for the Heritage Area is not needed before designation of the Heritage Area because the studies referred to in paragraph (9) provide sufficient documentation of—

(A) the national significance of heritage resources in the region; and

(B) the support of local communities for designation of the Heritage Area; and

(12) the Kenai Mountains-Turnagain Arm National Forest Heritage Corridor Communities Association—

(A) has been formed as a nonprofit corporation to act as the Local Coordinating Entity for the Heritage Area; and

(B) is governed by bylaws that define the purposes of the Association as the purposes established by Congress for the Kenai Mountains-Turnagain Arm National Forest Heritage Area.

(b) PURPOSES.—The purposes of this Act are—

(1) to recognize, preserve, and interpret the historic and modern resource development and cultural landscapes of the Kenai Mountains-Turnagain Arm historic transportation corridor; and

(2) to promote and facilitate the public enjoyment of the resources.

SEC. 3. DEFINITIONS.

In this Act:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Kenai Mountains-Turnagain Arm National Forest Heritage Area established by section 4(a).

(2) LOCAL COORDINATING ENTITY.—The term ''Local Coordinating Entity'' means the local coordinating entity for the Heritage Area designated by section 5(a).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Heritage Area developed under section 6.

(4) MAP.—The term ''map'' means the map entitled ''Draft Proposed NHA Kenai Mountains-Turnagain Arm'' and dated August 7, 2007.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(6) STATE.—The term ''State'' means the State of Alaska.

SEC. 4. ESTABLISHMENT OF KENAI MOUNTAINS-TURNAGAIN ARM NATIONAL FOREST HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the State the Kenai Mountains-Turnagain Arm National Forest Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall be comprised of the land in the Kenai Mountains and upper Turnagain Arm region, as generally depicted on the map.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in—

(1) the appropriate offices of the Forest Service, Chugach National Forest;

(2) the Alaska Regional Office of the National Park Service; and

(3) the Alaska State Historic Preservation Officer.

SEC. 5. LOCAL COORDINATING ENTITY.

(a) DESIGNATION.—The Kenai Mountains-Turnagain Arm National Forest Heritage Corridor Communities Association, a nonprofit corporation chartered in the State, shall be the local coordinating entity for the Heritage Area.

(b) DUTIES.—To further the purposes of the Heritage Area, the Local Coordinating Entity shall—

(1) in accordance with section 6, prepare and submit to the Secretary a management plan for the Heritage Area;

(2) for any fiscal year for which the Local Coordinating Entity receives Federal funds under this Act—

(A) submit an annual report to the Secretary that describes—

(i) the specific performance goals and accomplishments of the Local Coordinating Entity;

(ii) the expenses and income of the Local Coordinating Entity;

(iii) the amounts and sources of matching funds;

(iv) the amounts leveraged with Federal funds and the sources of the leveraging; and

(v) any grants made to any other entities during the fiscal year; and

(B) make available to the Secretary for audit any information relating to the expenditure of—

(i) the Federal funds; and

(ii) any matching funds; and

(3) encourage, consistent with the purposes of the Heritage Area, the economic viability and sustainability of the Heritage Area.

(c) AUTHORITIES.—For the purposes of developing and implementing the management plan for the Heritage Area, and subject to section 9(c), the Local Coordinating Entity may use Federal funds made available under this Act to—

(1) make grants to units of local government, nonprofit organizations, and other parties within the Heritage Area;

(2) enter into agreements with, or provide technical assistance to, Federal agencies, units of local government, nonprofit organizations, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historic, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal laws or programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that—

(A) further the purposes of the Heritage Area; and

(B) are consistent with the management plan.

(d) PUBLIC MEETINGS.—

(1) IN GENERAL.—Annually, the Local Coordinating Entity shall conduct at least 2 meetings open to the public regarding the development and implementation of the management plan.

(2) NOTICE; AVAILABILITY OF MINUTES.—The Local Coordinating Entity shall—

(A) publish a notice of each public meeting in a newspaper of general circulation in the Heritage Area; and

(B) make the minutes of the meeting available to the public.

(e) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The Local Coordinating Entity shall not use Federal funds authorized under this Act to acquire any interest in real property.

SEC. 6. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan, the Local Coordinating Entity shall submit to the Secretary for approval a management plan for the Heritage Area.

(b) REQUIREMENTS.—The management plan shall—

(1) include—

(A) a list of comprehensive policies, goals, strategies, and recommendations for actions and projects consistent with the purposes of the Heritage Area;

(B) a description of proposed actions and financial commitments of governments (including tribal governments) and private organizations that would accomplish the purposes of the Heritage Area;

(C) a description of the role and participation of the Federal Government and State, tribal, and local governments that have jurisdiction over land within the Heritage Area; and

(D) an inventory of the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(2) identify existing and potential sources of funding to accomplish the recommended actions and projects for the Heritage Area;

(3) include a business plan that—

(A) describes the role, operation, financing, and functions of—

(i) the Local Coordinating Entity; and

(ii) each of the major activities addressed in the management plan; and

(B) provides adequate assurances that the Local Coordinating Entity has the partnerships and financial and other resources necessary to implement the management plan; and

(4) be consistent with Federal, State, borough, and local plans, including—

(A) the plans for the Chugach National Forest and the Kenai Fjords National Park; and

(B) State transportation and historic management plans.

(c) TERMINATION OF FUNDING.—If the Local Coordinating Entity does not submit the management plan to the Secretary by the date that is 3 years after the date on which funds are first made available to develop the management plan, the Local Coordinating Entity shall be ineligible to receive additional funding under this Act until the date on which the management plan is approved by the Secretary.

(d) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of receipt of the management plan under subsection (a), the Secretary shall approve or disapprove the management plan.

(2) CONSIDERATIONS.—In determining whether to approve or disapprove the management plan under paragraph (1), the Secretary shall consider whether—

(A) the Local Coordinating Entity—

(i) has afforded adequate opportunities for public and governmental involvement in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(B) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area;

(C) the management plan—

(i) is consistent with applicable Federal, State, borough, and local plans; and

(ii) would not adversely affect any activities authorized on Federal land;

(D) the Local Coordinating Entity, in partnership with other entities, has demonstrated the financial capability to carry out the management plan;

(E) the Secretary has received adequate assurances from State and local officials, the

support of which is needed to ensure the effective implementation of the State and local elements of the management plan; and

(F) the management plan demonstrates sufficient partnerships among the Local Coordinating Entity, the Federal Government, State and local governments, regional planning organizations, nonprofit organizations, or private sector parties to implement the management plan.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan under paragraph (1), the Secretary shall—

(A) advise the Local Coordinating Entity in writing of the reasons for the disapproval;

(B) make recommendations for revisions to the management plan; and

(C) not later than 180 days after the receipt of any proposed revision of the management plan, approve or disapprove the proposed revision.

(e) AMENDMENTS.—

(1) IN GENERAL.—The Secretary shall review and approve any substantial amendments to the management plan in accordance with subsection (d).

(2) USE OF FUNDS.—Funds made available under this Act shall not be expended by the Local Coordinating Entity to implement any changes made by an amendment described in paragraph (1) until the Secretary approves the amendment.

(f) IMPLEMENTATION.—In implementing the management plan, the Local Coordinating Entity shall give priority to—

(1) carrying out programs that recognize important resource values within the Heritage Area;

(2) encouraging economic viability in the affected communities;

(3) establishing and maintaining interpretive exhibits within the Heritage Area;

(4) improving and interpreting heritage trails;

(5) increasing public awareness of, and appreciation for, the natural, historic, and cultural resources of the Heritage Area, including the contributions of local Indian tribes;

(6) providing opportunities for expanding the public perception of the need for modern resource development of the Heritage Area;

(7) restoring historic buildings and structures that are located within the Heritage Area; and

(8) ensuring that clear, consistent, and appropriate signs identifying public access points and sites of interest are appropriately placed in the Heritage Area.

SEC. 7. DUTIES AND AUTHORITIES OF THE SECRETARY.

(a) MEMORANDUM OF UNDERSTANDING.—The Secretary shall enter into a memorandum of understanding with the Secretary of the Interior to establish a general framework for cooperation and consultation in the development and implementation of the management plan.

(b) AUTHORITIES.—The Secretary may—

(1) subject to the availability of funds, provide technical and financial assistance for the development and implementation of the management plan;

(2) enter into cooperative agreements with interested parties to carry out this Act; and

(3) in partnership with the Local Coordinating Entity, provide information on, promote understanding of, and encourage research on the Heritage Area.

(c) INFORMATION RELEASED BY THE SECRETARY OF THE INTERIOR.—The Secretary of the Interior shall include the Heritage Area in all nationwide releases, listings, or maps that provide public information about the system of national heritage areas.

SEC. 8. PRIVATE PROPERTY PROTECTIONS.

(a) IN GENERAL.—Nothing in this Act—

(1) grants powers of zoning or management of land use to the Local Coordinating Entity;

(2) modifies, enlarges, or diminishes any authority of the Federal Government or any State, tribal, or local government to manage or regulate any use of land under applicable laws (including regulations);

(3) requires any private property owner to allow public access to the private property, including access by the Federal Government or tribal, State, or local governments;

(4) modifies any provision of Federal, tribal, State, or local law with respect to public access to, or use of, private property;

(5) obstructs or limits—

(A) business activities on private developments; or

(B) resource development activities;

(6) affects the rights of private property owners;

(7) restricts or limits an Indian tribe from protecting cultural or religious sites on tribal or Native Corporation land; or

(8) requires the owner of any private property located within the boundaries of the Heritage Area to participate in, or be associated with, the Heritage Area.

(b) APPLICABLE LAW.—Designation of the Heritage Area under this Act does not convey status to the Heritage Area as a conservation system unit (as defined in section 102 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102)).

(c) LIABILITY.—Designation of the Heritage Area does not create any liability for, or affect any liability under any other law of, any private property owner with respect to a person injured on the private property.

(d) EFFECT OF ESTABLISHMENT.—Designation of the Heritage Area does not establish any regulatory authority on land use within the Heritage Area or the viewshed for the Federal Government or any State or local government.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated and made available to the Local Coordinating Entity to carry out the development and implementation of the management plan—

(1) $350,000 for fiscal year 2008; and

(2) $500,000 for fiscal year 2009 and each fiscal year thereafter.

(b) LIMITATION.—Notwithstanding subsection (a), not more than $7,500,000 is authorized to be appropriated for the Heritage Area.

(c) COST SHARING REQUIREMENT.—To the maximum extent practicable, the Federal share of the total cost of any activity carried out using assistance under this Act shall be not more than 75 percent, including the contribution of in-kind services.

SEC. 10. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this Act terminates on the date that is 15 years after the date of enactment of this Act.

By Mr. BROWNBACK (for himself, Mr. CASEY, Mr. COLEMAN, Mr. SPECTER, and Mr. INHOFE):

S. 3046. A bill to amend the Federal Food, Drug, and Cosmetic Act to create a new conditional approval system for drugs, biological products, and devices that is responsive to the needs of seriously ill patients, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BROWNBACK. Mr. President, I rise to speak about a bill I introduced today: the Access, Compassion, Care and Ethics for Seriously-ill Patients Act, ACCESS, Act. I would like to thank the original Senate cosponsors: Senators BOB CASEY, NORM CROLEMAN, ARLEN SPECTER and JAMES INHOFE. I also especially thank Representative DIANNE WATSON who will be introducing the companion bill in the U.S. House of Representatives.

In the current era, certain cancers and other chronic diseases touch the lives of almost every American. If you have had the experience of a family member or friend struggling with terminal illness, you were probably aware of their need and limited timeline to access promising treatments. Unfortunately, the current system often does not work for the benefit of terminally-ill patients—during emotionally-charged times, patients and their families may face regulatory and bureaucratic hurdles if they wish to access investigational treatment options in order to preserve their lives. Many terminally-ill patients exhaust their treatment options and do not qualify for a clinical trial. They also do not physically have months to wait for an individual investigational treatment application to be approved.

In this day and age of scientific breakthroughs, we must embrace these advances and do so with a ''patient-centered'' mindset. Terminally-ill patients often reach a point where the potential benefits of these breakthrough treatments outweigh their inevitable risk of death from their disease.

I introduced the ACCESS Act to offer these patients an ethical option—compassionate access to treatments that show promise earlier in the drug development process. The average time for a treatment to go through the entire FDA approval process is 15 years. As a result, the current system tends to benefit future generations of patients with life-threatening diseases, rather than patients of the present time.

The ACCESS Act offers a new Compassionate Investigational Access approval system for treatments showing efficacy during clinical trials, for use by the seriously-ill patient population. Seriously-ill patients who have exhausted all alternatives and are seeking new treatment options, would be offered access to these treatments with the consent of their physician. This bill also improves upon the existing accelerated approval system, using a patient-centered framework. The ACCESS Act also makes a technical correction that will increase patient access to drugs used off-label to treat life-threatening diseases.

I ask my colleagues to join me in supporting the ACCESS Act that would offer patients, with little hope, a chance at life.

By Mr. BROWN:

S.J. Res. 33. A joint resolution recognizing the efforts of the Ohio Department of Mental Health and the Ohio Department of Alcohol and Drug Addiction Services to address the stigma associated with mental health and substance use disorders; to the Committee on Health, Education, Labor, and Pensions.

Mr. BROWN. Mr. President, May is National Mental Health Month. This proud tradition was started over 50 years ago. Each May, the mental health community comes together to raise awareness about mental health disorders and to celebrate recovery. The last 50 years have seen significant progress in the treatment of mental disorders.

We know that with treatment and support, it is possible to recover.

Dr. Fred Frese knows this first hand. I met Dr. Frese at a roundtable that I held in Cleveland, Ohio. Dr. Frese served as Director of Psychology at Western Reserve Psychiatric Hospital for 15 years. He is currently an Assistant Professor of Psychology in Clinical Psychiatry at Case Western Reserve University and Northeastern Ohio Universities College of Medicine. He has authored and reviewed numerous articles and chapters, lectured in several countries and served on the boards of trustees of various organizations that work on behalf of individuals with disabilities.

In 1999, Dr. Frese received the Hildreth Award, the highest honor given by the American Psychological Association's Psychologists in Public Service Division. Over the course of his career, he has testified numerous times before both houses of the United States Congress. Dr. Frese's career has been remarkable. His life has been remarkable.

He has been living with paranoid schizophrenia since 1966. Dr. Frese is remarkable. But his recovery is not unusual.

Many people stricken with mental illness can and do recover with appropriate treatment. But the stigma associated with mental health disorders can discourage people from getting the help they need. The U.S. Surgeon General's seminal report on mental health cites stigma as a significant barrier to recovery.

I am proud to say that Ohio's Departments of Mental Health and Alcohol and Drug Addiction Services are doing something about it. They have launched a ''Think Outside the Stigma'' campaign, a public information effort to increase awareness about the misperceptions associated with mental health and substance use disorders.

Today I am introducing a resolution commending this campaign.

My colleague in the house, Congressman Zack Space, is offering a companion resolution.

Imagine a world where individuals with mental disorders are supported and treated, not marginalized and discriminated against. Imagine a world where we see individuals first and disability second. Imagine the wealth of talent and resources that individuals with mental illness can realize with treatment. Individuals like Dr. Frese.

We must work together to overcome the unfair and unnecessary burden of stigma associated with mental illness and substance use disorders. We know that treatment can work. We know that people can recover. We know that Americans are well worth the investment.

We know that Americans are well worth the investment.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 572—CALLING UPON THE COURT OF APPEAL FOR THE SECOND APPELLATE DISTRICT OF CALIFORNIA TO UPHOLD THE FUNDAMENTAL AND CONSTITUTIONAL RIGHT OF PARENTS TO DIRECT THE UPBRINGING AND EDUCATION OF THEIR CHILDREN

Mrs. DOLE submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 572

Whereas the modern homeschool movement in the United States demonstrates that homeschooled children are a vital component of the United States education system;

Whereas homeschool graduates act responsibly as parents and as students in colleges and universities, are valuable in the workplace, and are productive citizens in society at large;

Whereas many studies confirm that children who are educated at home score considerably above the national average on nationally-normed achievement tests, and above the average on both the SAT and ACT college entrance exams;

Whereas homeschooled children, such as 2007 Heisman Trophy winner Tim Tebow, are receiving national recognition for their victories in national competitions, such as national spelling bees and geography bees, and are being highly sought after by nationally-recognized colleges and universities;

Whereas homeschooling families contribute significantly to the cultural diversity important to a healthy society;

Whereas notable individuals such as Benjamin Franklin, John Quincy Adams, Patrick Henry, Ansel Adams, Charles Dickens, and General Douglas MacArthur all received a high-quality education at home;

Whereas over 2,100,000 children are being homeschooled nationwide;

Whereas the Supreme Court has ruled that parents have a fundamental and constitutional right to direct the upbringing and education of their children, in the cases of Pierce v. Society of Sisters, 268 U.S. 510 (1925), Meyer v. Nebraska, 262 U.S. 390 (1923), and Wisconsin v. Yoder, 406 U.S. 205 (1972);

Whereas on February 28, 2008, the Court of Appeal for the Second Appellate District of California, in Los Angeles, California, issued an opinion in the case of In re Rachel L., 73 Cal. Rptr. 3d 77 (Cal. Ct. App. 2008), that homeschool parents who did not hold a teaching credential could not legally homeschool their children;

Whereas the initial decision by the Court of Appeal in that case would have had an adverse impact on approximately 166,000 children in California who are receiving a quality education at home; and

Whereas on March 25, 2008, the Court of Appeal granted a motion for rehearing in the In re Rachel L. case, with respect to the decision that required parents to hold a teaching credential in order to legally homeschool their children; Now, therefore, be it

Resolved, That the Senate—

(1) commends the Court of Appeal for the Second Appellate District of California, in Los Angeles, California, for allowing a rehearing in the case of In re Rachel L., 73 Cal. Rptr. 3d 77 (Cal. Ct. App. 2008); and

(2) calls upon the court to uphold the Supreme Court's opinion that parents have a fundamental and constitutional right to direct the upbringing and education of their children.

SENATE RESOLUTION 573—RECOGNIZING CUBA SOLIDARITY DAY AND THE STRUGGLE OF THE CUBAN PEOPLE AS THEY CONTINUE TO FIGHT FOR FREEDOM

Mr. MARTINEZ (for himself, Mr. MENENDEZ, Mr. ENSIGN, Mr. NELSON of Florida, Mr. COLEMAN, and Mr. LIEBERMAN) submitted the following resolution; which was considered and agreed to:

S. RES. 573

Whereas the Cuban regime continues to deny the basic human rights of its citizens;

Whereas the Cuban people are denied freedom of the press, freedom of speech, and freedom to peaceful assembly;

Whereas the Cuban regime refuses to hold free and fair elections in order to elect a democratic government that represents the will of the people;

Whereas Freedom House recently rated Cuba as 1 of the 8 most oppressive regimes in the world;

Whereas the Cuban regime is currently holding more than 220 political prisoners according to Amnesty International, Human Rights Watch, and Reporters Without Borders;

Whereas these prisoners are illegally held in prison contrary to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which Cuba has signed and recognizes;

Whereas 55 of the 75 political activists imprisoned in the March 2003 crackdown (known as ''Black Spring'') including independent journalists and union members, remain in prison;

Whereas the wives of these prisoners, known as the Ladies in White, continue to be assaulted for simply seeking information regarding the March 2003 arrests, most recently on April 21, 2008, when the Ladies in White were violently dragged from a peaceful sit-in by Cuban officials;

Whereas prisoners face inhuman and unsafe prison conditions, including the denial of medical treatment; and

Whereas on May 21, 2008 communities around the world will celebrate Cuba Solidarity Day, a day for the world to join together in the fight against oppression in Cuba: Now therefore, be it

Resolved, That the Senate—

(1) celebrates Cuba Solidarity Day;

(2) recognizes the injustices faced by the people of Cuba under the current regime; and

(3) stands in solidarity with the Cuban people as they continue to work towards democratic change in their homeland.

SENATE CONCURRENT RESOLUTION 83—SUPPORTING THE GOALS AND IDEALS OF NATIONAL BETTER HEARING AND SPEECH MONTH

Mr. REID (for Mrs. CLINTON (for herself and Mrs. MURRAY)) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 83

Whereas the National Institute on Deafness and Other Communication Disorders reports that approximately 42,000,000 people in the United States suffer from a speech, voice, language, or hearing impairment;

Whereas approximately 32,500,000, or 15 percent, of adults in the United States report some degree of hearing loss;

Whereas 1 out of every 3 people in the United States over 60 years of age has a hearing problem;

Whereas 1 in 6, or 15 percent, of people in the baby boom generation, between the ages of 41 and 59, has a hearing problem;

Whereas 1 in 14, or 7 percent, of people in the United States between the ages of 29 and 40 already has hearing loss;

Whereas at least 1,400,000 children in the United States have hearing problems;

Whereas traumatic brain injury is an increasing problem among members of the Armed Forces returning from the wars in Iraq and Afghanistan;

Whereas patients with traumatic brain injury may have problems with spoken language, called dysarthria, if the part of the brain that controls speech muscles is damaged, resulting in speech that is often slowed, slurred, and garbled;

Whereas members of the Armed Forces sent to battle zones are more than 50 times more likely to suffer noise-induced hearing loss than members of the Armed Forces who do not deploy;

Whereas, although more than 32,500,000 adults in the United States could benefit from the use of hearing aids, only 1 in 5 people who could benefit from a hearing aid actually wears one;

Whereas, of children between the ages of 6 and 19 years old, approximately 5,200,000, or 12.5 percent, are estimated to have noise-induced hearing loss in one or both ears, often as a result of increased environmental noise;

Whereas hearing loss is the most common congenital disorder in newborns;

Whereas a delay in diagnosing a hearing loss when a child is born can affect the child's social, emotional, and academic development;

Whereas, during the 2003 school year, more than 1,500,000 children had speech, language, or hearing impairments and received services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

Whereas children with language impairments are 4 to 5 times more likely than their peers to experience reading problems;

Whereas 10 percent of children entering the first grade have moderate to severe speech disorders, including stuttering;

Whereas more than 3,000,000 people in the United States of all ages stutter;

Whereas approximately 1,000,000 people in the United States have aphasia, a language disorder inhibiting spoken communication that results from damage caused by a stroke or other traumatic injury to the language centers of the brain; and

Whereas, since 1927, May has been celebrated as National Better Hearing and Speech Month in order to raise awareness regarding speech, voice, language, and hearing impairments and to provide an opportunity for Federal, State, and local governments, members of the private and nonprofit sectors, speech and hearing professionals, and the people of the United States to focus on preventing, mitigating, and curing such impairments: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) supports the goals and ideals of National Better Hearing and Speech Month;

(2) urges increased coordination of community-based, comprehensive care for members of the Armed Forces, veterans, athletes, and accident victims who have experienced hearing and speech deficiencies as a result of traumatic brain injury;

(3) supports the efforts of speech and hearing professionals to improve the speech and hearing development of children;

(4) encourages the people of the United States to have their hearing checked regularly and to avoid environmental noise that can lead to hearing loss; and

(5) commends the 46 States that have implemented routine hearing screenings for every newborn before the newborn leaves the hospital.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4805. Mr. CORKER submitted an amendment intended to be proposed by him to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table.

SA 4806. Mr. CORKER (for himself, Mr. BINGAMAN, Mr. HARKIN, Mr. MENENDEZ, Mr. MARTINEZ, Mr. NELSON of Florida, and Mr. DODD) submitted an amendment intended to be proposed by him to the bill H.R. 2642, supra; which was ordered to lie on the table.

SA 4807. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 2642, supra; which was ordered to lie on the table.

SA 4808. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 2642, supra; which was ordered to lie on the table.

SA 4809. Mr. FEINGOLD (for himself, Mr. LEAHY, Mr. WHITEHOUSE, Mr. DURBIN, Mr. SANDERS, Mr. LAUTENBERG, Mrs. BOXER, Mr. HARKIN, Mr. MENENDEZ, and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 2642, supra; which was ordered to lie on the table.

SA 4810. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill H.R. 2642, supra; which was ordered to lie on the table.

SA 4811. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 2642, supra; which was ordered to lie on the table.

SA 4812. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2642, supra; which was ordered to lie on the table.

SA 4813. Mr. CASEY (for himself, Ms. SNOWE, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 2642, supra; which was ordered to lie on the table.

SA 4814. Mr. BROWNBACK (for himself, Mr. ENSIGN, and Mr. ROBERTS) submitted an amendment intended to be proposed to amendment SA 4803 proposed by Mr. REID to the bill H.R. 2642, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS—MAY 20, 2008

SA 4789. Mr. REID proposed an amendment to House amendment numbered 2 to the Senate amendment to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; as follows:

In lieu of the language proposed to be inserted, insert the following:

TITLE I

OTHER SECURITY, MILITARY CONSTRUCTION, AND INTERNATIONAL MATTERS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

For an additional amount for ''Public Law 480 Title II Grants'', $850,000,000, to remain available until expended.

For an additional amount for ''Public Law 480 Title II Grants'', $395,000,000, to become available on October 1, 2008, and to remain available until expended.

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For an additional amount for the Office of the Inspector General, $4,000,000, to remain available until September 30, 2009.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for ''Salaries and Expenses, General Legal Activities'', $1,648,000, to remain available until September 30, 2009.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for ''Salaries and Expenses, United States Attorneys'', $5,000,000, to remain available until September 30, 2009.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $18,621,000, to remain available until September 30, 2009.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $164,965,000, to remain available until September 30, 2009.

For an additional amount for ''Salaries and Expenses'', $82,600,000 to become available on October 1, 2008 and to remain available until September 30, 2009.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $22,666,000, to remain available until September 30, 2009.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $4,000,000, to remain available until September 30, 2009.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $9,100,000, to remain available until September 30, 2009.

CHAPTER 3

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

For an additional amount for ''Military Construction, Army'', $1,170,200,000: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds made available under this heading, $1,033,000,000 shall remain available until September 30, 2009, and $137,200,000 shall remain available until September 30, 2012: *Provided further*, That funds made available under this heading for military construction

projects in Iraq shall not be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that none of the funds are to be used for the purpose of providing facilities for the permanent basing of U.S. military personnel in Iraq.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for ''Military Construction, Navy and Marine Corps'', $300,084,000: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds made available under this heading, $270,785,000 shall remain available until September 30, 2009, and $29,299,000 shall remain available until September 30, 2012.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for ''Military Construction, Air Force'', $361,900,000: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds made available under this heading, $324,300,000 shall remain available until September 30, 2009, and $37,600,000 shall remain available until September 30, 2012: *Provided further*, That funds made available under this heading for military construction projects in Iraq shall not be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that none of the funds are to be used for the purpose of providing facilities for the permanent basing of U.S. military personnel in Iraq.

MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for ''Military Construction, Defense-Wide'', $27,600,000, to remain available until September 30, 2009: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for ''Family Housing Construction, Navy and Marine Corps'', $11,766,000, to remain available until September 30, 2012: *Provided*, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $1,202,886,000, to remain available until expended.

DEPARTMENT OF VETERANS AFFAIRS

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for ''General Operating Expenses'', $100,000,000, to remain available until expended.

INFORMATION TECHNOLOGY SYSTEMS

For an additional amount for ''Information Technology Systems'', $20,000,000, to remain available until expended.

CONSTRUCTION, MAJOR PROJECTS

For an additional amount for ''Construction, Major Projects'', $437,100,000, to remain available until expended, which shall be for acceleration and completion of planned major construction of Level I polytrauma rehabilitation centers as identified in the Department of Veterans Affairs' Five Year Capital Plan: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and major medical facility construction not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act the Secretary shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1301. In addition to amounts otherwise appropriated or made available under the heading ''Military Construction, Army'', there is hereby appropriated an additional $70,600,000, to remain available until September 30, 2012, for the acceleration and completion of child development center construction as proposed in the fiscal year 2009 budget request for the Department of the Army: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction not otherwise authorized by law.

SEC. 1302. In addition to amounts otherwise appropriated or made available under the heading ''Military Construction, Navy and Marine Corps'', there is hereby appropriated an additional $89,820,000, to remain available until September 30, 2012, for the acceleration and completion of child development and youth center construction as proposed in the fiscal year 2009 budget request for the Department of the Navy: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction not otherwise authorized by law.

SEC. 1303. In addition to amounts otherwise appropriated or made available under the heading ''Military Construction, Air Force'', there is hereby appropriated an additional $8,100,000, to remain available until September 30, 2012, for the acceleration and completion of child development center construction as proposed in the fiscal year 2009 budget request for the Department of the Air Force: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction not otherwise authorized by law.

SEC. 1304. In addition to amounts otherwise appropriated or made available under the heading ''Military Construction, Army'', there is hereby appropriated an additional $200,000,000, to remain available until September 30, 2012, to accelerate barracks improvements at Department of the Army installations: *Provided*, That such funds may be obligated and expended to carry out planning and design and barracks construction not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act the Secretary shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for barracks construction prior to obligation.

SEC. 1305. COLLECTION OF CERTAIN INDEBTEDNESS OF MEMBERS OF THE ARMED FORCES AND VETERANS WHO DIE OF INJURY INCURRED OR AGGRAVATED IN SERVICE IN THE LINE OF DUTY IN A COMBAT ZONE. (a) LIMITATION ON AUTHORITY.—

(1) IN GENERAL.—Chapter 53 of title 38, United States Code, is amended by inserting after section 5302 the following new section:

''§ 5302A. Collection of indebtedness: certain debts of members of the Armed Forces and veterans who die of injury incurred or aggravated in the line of duty in a combat zone

''(a) LIMITATION ON AUTHORITY.—The Secretary may not collect all or any part of an amount owed to the United States by a member of the Armed Forces or veteran described in subsection (b) under any program under the laws administered by the Secretary, other than a program referred to in subsection (c), if the Secretary determines that termination of collection is in the best interest of the United States.

''(b) COVERED INDIVIDUALS.—A member of the Armed Forces or veteran described in this subsection is any member or veteran who dies as a result of an injury incurred or aggravated in the line of duty while serving in a theater of combat operations (as determined by the Secretary in consultation with the Secretary of Defense) in a war or in combat against a hostile force during a period of hostilities (as that term is defined in section 1712A(a)(2)(B) of this title) after September 11, 2001.

''(c) INAPPLICABILITY TO HOUSING AND SMALL BUSINESS BENEFIT PROGRAMS.—The limitation on authority in subsection (a) shall not apply to any amounts owed the United States under any program carried out under chapter 37 of this title.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 53 of such title is amended by inserting after the item relating to section 5302 the following new item:

''5302A. Collection of indebtedness: certain debts of members of the Armed Forces and veterans who die of injury incurred or aggravated in the line of duty in a combat zone.''.

(b) EQUITABLE REFUND.—In any case where all or any part of an indebtedness of a covered individual, as described in section 5302A(a) of title 38, United States Code, as added by subsection (a)(1), was collected after September 11, 2001, and before the date of the enactment of this Act, and the Secretary of Veterans Affairs determines that such indebtedness would have been terminated had such section been in effect at such time, the Secretary may refund the amount so collected if the Secretary determines that the individual is equitably entitled to such refund.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to collections of indebtedness of members of the Armed Forces and veterans who die on or after September 11, 2001.

(d) SHORT TITLE.—This section may be cited as the ''Combat Veterans Debt Elimination Act of 2008''.

CHAPTER 4

SUBCHAPTER A—SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2008

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for ''Diplomatic and Consular Programs'', $1,413,700,000, to remain available until September 30, 2009, of which $212,400,000 for worldwide security protection is available until expended: *Provided*, That not more than $1,095,000,000 of the funds appropriated under this heading shall be available for diplomatic operations in Iraq: *Provided further*, That of the funds appropriated under this heading, not more than $30,000,000 shall be made available to establish and implement a coordinated civilian response capacity at the United States Department of State: *Provided further*, That of the funds appropriated under this heading, up to $5,000,000 shall be made available to establish a United States Consulate in Lhasa, Tibet: *Provided further*, That the Department of State shall not consent to the opening of a consular post in the United States by the People's Republic of China until such time as a United States Consulate in Lhasa, Tibet is established.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of Inspector General'', $12,500,000, to remain available until September 30, 2009: *Provided*, That $2,500,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight, and up to $5,000,000 may be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For an additional amount for ''Educational and Cultural Exchange Programs'', $10,000,000, to remain available until September 30, 2009, of which $5,000,000 shall be for programs and activities in Africa, and $5,000,000 shall be for programs and activities in the Western Hemisphere.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for ''Embassy Security, Construction, and Maintenance'', $76,700,000, to remain available until expended, for facilities in Afghanistan.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for ''Contributions to International Organizations'', $66,000,000, to remain available until September 30, 2009.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for ''Contributions for International Peacekeeping Activities'', $383,600,000, to remain available until September 30, 2009, of which $333,600,000 shall be made available for the United Nations-African Union Hybrid Mission in Darfur.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for ''International Broadcasting Operations'', $3,000,000, to remain available until September 30, 2009.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for ''International Disaster Assistance'', $240,000,000, to remain available until expended.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for ''Operating Expenses of the United States Agency for International Development'', $149,500,000, to remain available until September 30, 2009: *Provided*, That of the funds appropriated under this heading, not more than $25,000,000 shall be made available to establish and implement a coordinated civilian response capacity at the United States Agency for International Development.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Operating Expenses of the United States Agency for International Development Office of Inspector General'', $4,000,000, to remain available until September 30, 2009.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For an additional amount for ''Economic Support Fund'', $1,962,500,000, to remain available until September 30, 2009, of which not more than $398,000,000 may be made available for assistance for Iraq, $150,000,000 shall be made available for assistance for Jordan to meet the needs of Iraqi refugees, and up to $53,000,000 may be made available for energy-related assistance for North Korea, notwithstanding any other provision of law: *Provided*, That not more than $200,000,000 of the funds appropriated under this heading in this subchapter shall be made available for assistance for the West Bank: *Provided further*, That funds made available pursuant to the previous proviso shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That the funds made available under this heading for energy-related assistance for North Korea may be made available to support the goals of the Six Party Talks Agreements after the Secretary of State determines and reports to the Committees on Appropriations that North Korea is continuing to fulfill its commitments under such agreements.

DEPARTMENT OF STATE

DEMOCRACY FUND

For an additional amount for ''Democracy Fund'', $76,000,000, to remain available until September 30, 2009, of which $75,000,000 shall be for democracy programs in Iraq and $1,000,000 shall be for democracy programs in Chad.

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for ''International Narcotics Control and Law Enforcement'', $520,000,000, to remain available until September 30, 2009, of which not more than $25,000,000 shall be made available for security assistance for the West Bank: *Provided*, That of the funds appropriated under this heading, $1,000,000 shall be made available for the Office of the United Nations High Commissioner for Human Rights in Mexico.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for ''Migration and Refugee Assistance'', $330,500,000, to remain available until expended.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For an additional amount for ''United States Emergency Refugee and Migration Assistance Fund'', $36,608,000, to remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for ''Nonproliferation, Anti-Terrorism, Demining and Related Programs'', $10,000,000, to remain available until September 30, 2009.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

PEACEKEEPING OPERATIONS

For an additional amount for ''Peacekeeping Operations'', $10,000,000, to remain available until September 30, 2009.

SUBCHAPTER B—BRIDGE FUND

APPROPRIATIONS FOR FISCAL YEAR 2009

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for ''Diplomatic and Consular Programs'', $652,400,000, which shall become available on October 1, 2008 and remain available through September 30, 2009: *Provided*, That of the funds appropriated under this heading, $78,400,000 is for worldwide security protection and shall remain available until expended: *Provided further*, That not more than $500,000,000 of the funds appropriated under this heading shall be available for diplomatic operations in Iraq.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of Inspector General'', $57,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009: *Provided*, That $36,500,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight and up to $5,000,000 shall be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for ''Embassy Security, Construction, and Maintenance'', $41,300,000, which shall become available on October 1, 2008 and remain available until expended, for facilities in Afghanistan.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for ''Contributions to International Organizations'', $75,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for ''Contributions for International Peacekeeping Activities'', $150,500,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for ''International Broadcasting Operations'', $6,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

GLOBAL HEALTH AND CHILD SURVIVAL

For an additional amount for ''Global Health and Child Survival'', $75,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, for programs to combat avian influenza.

DEVELOPMENT ASSISTANCE

For an additional amount for ''Development Assistance'', $200,000,000, for assistance for developing countries to address the international food crisis notwithstanding any other provision of law, which shall become available on October 1, 2008 and remain available through September 30, 2010: *Provided*, That such assistance should be carried out consistent with the purposes of section 103(a)(1) of the Foreign Assistance Act of 1961: *Provided further*, That not more than $50,000,000 should be made available for local or regional purchase and distribution of food: *Provided further*, That the Secretary of State shall submit to the Committees on Appropriations not later than 45 days after enactment of this Act, and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of such funds to alleviate hunger and malnutrition, including a list of those countries facing significant food shortages.

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for ''International Disaster Assistance'', $200,000,000, which shall become available on October 1, 2008 and remain available until expended.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for ''Operating Expenses of the United States Agency for International Development'', $93,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Operating Expenses of the United States Agency for International Development Office of Inspector General'', $1,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For an additional amount for ''Economic Support Fund'', $1,132,300,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, of which not more than $110,000,000 may be made available for assistance for Iraq, $100,000,000 shall be made available for assistance for Jordan, not more than $455,000,000 may be made available for assistance for Afghanistan, not more than $150,000,000 may be made available for assistance for Pakistan, not more than $150,000,000 shall be made available for assistance for the West Bank, and $15,000,000 may be made available for energy-related assistance for North Korea, notwithstanding any other provision of law.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for ''International Narcotics Control and Law Enforcement'', $151,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, of which not more than $50,000,000 shall be made available for security assistance for the West Bank.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for ''Migration and Refugee Assistance'', $350,000,000, which shall become available on October 1, 2008 and remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for ''Nonproliferation, Anti-Terrorism, Demining and Related Programs'', $4,500,000, for humanitarian demining assistance for Iraq, which shall become available on October 1, 2008 and remain available through September 30, 2009.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for ''Foreign Military Financing Program'', $145,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, of which $100,000,000 shall be made available for assistance for Jordan: *Provided,* That section 3802(c) of title III, chapter 8 of Public of Law 110–28 shall apply to funds made available under this heading for assistance for Lebanon.

PEACEKEEPING OPERATIONS

For an additional amount for ''Peacekeeping Operations'', $85,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

SUBCHAPTER C—GENERAL PROVISIONS—THIS CHAPTER

EXTENSION OF AUTHORITIES

SEC. 1401. Funds appropriated by this chapter may be obligated and expended notwithstanding section 10 of Public Law 91–672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Year 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

IRAQ

SEC. 1402. (a) ASSET TRANSFER AGREEMENT.—

(1) None of the funds appropriated by this chapter for infrastructure maintenance activities in Iraq may be made available until the Secretary of State certifies and reports to the Committees on Appropriations that the Governments of the United States and Iraq have entered into, and are implementing, an asset transfer agreement that includes commitments by the Government of Iraq to maintain United States-funded infrastructure in Iraq.

(2) None of the funds appropriated by this chapter may be made available for the construction of prison facilities in Iraq.

(b) ANTI-CORRUPTION.—None of the funds appropriated by this chapter for rule of law programs in Iraq may be made available for assistance for the Government of Iraq until the Secretary of State certifies and reports to the Committees on Appropriations that a comprehensive anti-corruption strategy has been developed, and is being implemented, by the Government of Iraq, and the Secretary of State submits a list, in classified form if necessary, to the Committees on Appropriations of senior Iraqi officials who the Secretary has credible evidence to believe have committed corrupt acts.

(c) PROVINCIAL RECONSTRUCTION TEAMS.—None of the funds appropriated by this chapter for the operational or program expenses of Provincial Reconstruction Teams (PRTs) in Iraq may be made available until the Secretary of State submits a report to the Committees on Appropriations detailing—

(1) the strategy for the eventual winding down and close out of PRTs;

(2) anticipated costs associated with PRT operations, programs, and eventual winding down and close out, including security for PRT personnel and anticipated Government of Iraq contributions; and

(3) anticipated placement and cost estimates of future United States Consulates in Iraq.

(d) COMMUNITY STABILIZATION PROGRAM.—None of the funds appropriated by this chapter for the Community Stabilization Program in Iraq may be made available until the Secretary of State certifies and reports to the Committees on Appropriations that the United States Agency for International Development is implementing recommendations contained in Office of Inspector General Audit Report No. E–267–08–001–P to ensure accountability of funds.

(e) MATCHING REQUIREMENT.—

(1) Notwithstanding any other provision of law, funds appropriated by this chapter for assistance for Iraq shall be made available only to the extent that the Government of Iraq matches such assistance on a dollar-for-dollar basis.

(2) Subsection (e)(1) shall not apply to funds made available for—

(A) grants and cooperative agreements for programs to promote democracy and human rights;

(B) the Community Action Program and other assistance through civil society organizations;

(C) humanitarian demining; or

(D) assistance for refugees, internally displaced persons, and civilian victims of the military operations.

(3) The Secretary of State shall certify to the Committees on Appropriations prior to the initial obligation of funds pursuant to this section that the Government of Iraq has committed to obligate matching funds on a dollar-for-dollar basis. The Secretary shall submit a report to the Committees on Appropriations not later than September 30, 2008 and 180 days thereafter, detailing the amounts of funds obligated and expended by the Government of Iraq to meet the requirements of this section.

(4) Not later than 45 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations detailing the amounts provided by the Government of Iraq since June 30, 2004, to assist Iraqi refugees in Syria, Jordan, and elsewhere, and the amount of such assistance the Government of Iraq plans to provide in fiscal year 2008. The Secretary shall work expeditiously with the Government of Iraq to establish an account within its annual budget sufficient to, at a minimum, match United States contributions on a dollar-for-dollar basis to organizations and programs for the purpose of assisting Iraqi refugees.

(f) VETTING.—Prior to the initial obligation of funds appropriated for assistance for Iraq in this chapter, the Secretary of State shall, in consultation with the heads of other Federal departments and agencies, take appropriate steps to ensure that such funds are not provided to or through any individual, private entity, or educational institution that the Secretary knows or has reason to believe advocates, plans, sponsors, or engages in, terrorist activities.

(g) IRAQ RELIEF AND RECONSTRUCTION FUND.—

(1) Notwithstanding any other provision of law, the expired balances of funds appropriated or otherwise made available under the heading ''Iraq Relief and Reconstruction Fund'' in prior Acts making appropriations for foreign operations, export financing, and related programs shall be rescinded.

(2) None of the funds made available under the heading ''Iraq Relief and Reconstruction Fund'' in prior Acts making appropriations for foreign operations, export financing, and related programs may be reprogrammed for any purpose other than that previously notified to the Committees on Appropriations prior to April 30, 2008, and none of such funds may be made available to initiate any new projects or activities.

(3) Not later than 30 days after enactment of this Act, the Secretary of State shall report to the Committees on Appropriations on the balances of obligated funds referenced in subsection (g)(1), and estimates of the amount of funds required to close out ongoing projects or for outstanding claims.

AFGHANISTAN

SEC. 1403. (a) ASSISTANCE FOR WOMEN AND GIRLS.—Funds appropriated by this chapter under the heading ''Economic Support Fund'' that are available for assistance for Afghanistan shall be made available, to the maximum extent practicable, through local Afghan provincial and municipal governments and Afghan civil society organizations and in a manner that emphasizes the participation of Afghan women and directly improves the economic, social and political status of Afghan women and girls.

(b) HIGHER EDUCATION.—Of the funds appropriated by this chapter under the heading ''Economic Support Fund'' that are made available for education programs in Afghanistan, not less than 50 percent shall be made available to support higher education and vocational training programs in law, accounting, engineering, public administration, and other disciplines necessary to rebuild the country, in which the participation of women is emphasized.

(c) CIVILIAN ASSISTANCE.—Of the funds appropriated by this chapter under the heading ''Economic Support Fund'' that are available for assistance for Afghanistan, not less than $10,000,000 shall be made available for continued support of the United States Agency for International Development's Afghan Civilian Assistance Program, and not less than

$2,000,000 shall be made available for a United States contribution to the North Atlantic Treaty Organization/International Security Assistance Force Post-Operations Humanitarian Relief Fund.

(d) ANTI-CORRUPTION.—Not later than 90 days after the enactment of this Act, the Secretary of State shall—

(1) submit a report to the Committees on Appropriations on actions being taken by the Government of Afghanistan to combat corruption within the national and provincial governments, including to remove and prosecute officials who have committed corrupt acts;

(2) submit a list to the Committees on Appropriations, in classified form if necessary, of senior Afghan officials who the Secretary has credible evidence to believe have committed corrupt acts; and

(3) certify and report to the Committees on Appropriations that effective mechanisms are in place to ensure that assistance to national government ministries and provincial governments will be properly accounted for.

WAIVER OF CERTAIN SANCTIONS AGAINST NORTH KOREA

SEC. 1404. (a) ANNUAL WAIVER AUTHORITY.—

(1) IN GENERAL.—Except as provided in subsection (b), the President may waive in whole or in part, with respect to North Korea, the application of any sanction under section 102(b) of the Arms Export Control Act (22 U.S.C. 2799aa–1(b)), for the purpose of—

(A) assisting in the implementation and verification of the compliance by North Korea with its commitment, undertaken in the Joint Statement of September 19, 2005, to abandon all nuclear weapons and existing nuclear programs as part of the verifiable denuclearization of the Korean Peninsula; and

(B) promoting the elimination of the capability of North Korea to develop, deploy, transfer, or maintain weapons of mass destruction and their delivery systems.

(2) DURATION OF WAIVER.—Any waiver issued under this subsection shall expire at the end of the calendar year in which it is issued.

(b) EXCEPTIONS.—

(1) LIMITED EXCEPTION RELATED TO CERTAIN SANCTIONS AND PROHIBITIONS.—The authority under subsection (a) shall not apply with respect to a sanction or prohibition under subparagraph (B), (C), or (G) of section 102(b)(2) of the Arms Export Control Act, unless the President determines and certifies to the appropriate congressional committees that—

(A) all reasonable steps will be taken to assure that the articles or services exported or otherwise provided will not be used to improve the military capabilities of the armed forces of North Korea; and

(B) such waiver is in the national security interests of the United States.

(2) LIMITED EXCEPTION RELATED TO CERTAIN ACTIVITIES.—Unless the President determines and certifies to the appropriate congressional committees that using the authority under subsection (a) is vital to the national security interests of the United States, such authority shall not apply with respect to—

(A) an activity described in subparagraph (A) of section 102(b)(1) of the Arms Export Control Act that occurs after September 19, 2005, and before the date of the enactment of this Act;

(B) an activity described in subparagraph (C) of such section that occurs after September 19, 2005; or

(C) an activity described in subparagraph (D) of such section that occurs after the date of enactment of this Act.

(3) EXCEPTION RELATED TO CERTAIN ACTIVITIES OCCURRING AFTER DATE OF ENACTMENT.—The authority under subsection (a) shall not apply with respect to an activity described in subparagraph (A) or (B) of section 102(b)(1) of the Arms Export Control Act that occurs after the date of the enactment of this Act.

(c) NOTIFICATIONS AND REPORTS.—

(1) CONGRESSIONAL NOTIFICATION.—The President shall notify the appropriate congressional committees in writing not later than 15 days before exercising the waiver authority under subsection (a).

(2) ANNUAL REPORT.—Not later than January 31, 2009, and annually thereafter, the President shall submit to the appropriate congressional committees a report that—

(A) lists all waivers issued under subsection (a) during the preceding year;

(B) describes in detail the progress that is being made in the implementation of the commitment undertaken by North Korea, in the Joint Statement of September 19, 2005, to abandon all nuclear weapons and existing nuclear programs as part of the verifiable denuclearization of the Korean Peninsula;

(C) discusses specifically any shortcomings in the implementation by North Korea of that commitment; and

(D) lists and describes the progress and shortcomings, in the preceding year, of all other programs promoting the elimination of the capability of North Korea to develop, deploy, transfer, or maintain weapons of mass destruction or their delivery systems.

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

(1) the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

(2) the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives.

MEXICO

SEC. 1405. (a) ASSISTANCE FOR MEXICO.—Of the funds appropriated in subchapter A under the heading ''International Narcotics Control and Law Enforcement'', not more than $350,000,000 may be made available for assistance for Mexico, only to combat drug trafficking and related violence and organized crime, and for judicial reform, anti-corruption, and rule of law activities: *Provided*, That none of the funds made available under this section shall be made available for budget support or as cash payments: *Provided further*, That none of the funds made available under this section shall be available for obligation until the Secretary of State determines and reports to the Committees on Appropriations that vetting procedures are in place to ensure that members and units of the Mexican military and police forces that receive assistance pursuant to this section have not been involved in human rights violations or corrupt acts.

(b) ALLOCATION OF FUNDS.—Twenty-five percent of the funds made available by subchapter A for assistance for Mexico under the heading ''International Narcotics Control and Law Enforcement'' may be obligated only after the Secretary of State determines and reports to the Committees on Appropriations that:

(1) The Government of Mexico is—

(A) strengthening the legal authority and independence of the National Human Rights Commission;

(B) establishing police complaints commissions with authority and independence to receive complaints and carry out effective investigations;

(C) establishing an independent mechanism, with representation from civil society, to monitor programs to combat drug trafficking and related violence and organized crime, judicial reform, anti-corruption, and rule of law activities to ensure due process and the protection of freedoms of expression, association, and assembly, and rights of privacy, in accordance with Mexican and international law;

(D) is enforcing the prohibition on the use of testimony obtained through torture or other ill-treatment in violation of Mexican and international law;

(E) is ensuring that the Mexican military justice system is transferring all cases involving allegations of human rights violations by military personnel to civilian prosecutors and judicial authorities, and that the armed forces are fully cooperating with civilian prosecutors and judicial authorities in prosecuting and punishing in civilian courts members of the armed forces who have been credibly alleged to have committed such violations; and

(F) is ensuring that federal and state police forces are fully cooperating with prosecutors and judicial authorities in prosecuting and punishing members of the police forces who have been credibly alleged to have committed violations of human rights.

(2) Civilian prosecutors and judicial authorities are investigating, prosecuting and punishing members of the Mexican military and police forces who have been credibly alleged to have committed human rights violations.

(c) EXCEPTION.—Notwithstanding subsection (b), of the funds made available for assistance for Mexico pursuant to this section, $3,000,000 shall be made available for technical and other assistance to enable the Government of Mexico to implement a unified national registry of federal, state, and municipal police officers, and $5,000,000 should be made available to the Bureau of Alcohol, Tobacco, Firearms and Explosives to deploy special agents in Mexico to support Mexican law enforcement agencies in tracing seized firearms and investigating firearms trafficking cases.

(d) REPORT.—The report required in subsection (b) shall include a description of actions taken with respect to each requirement specified in subsection (b) and the cases or issues brought to the attention of the Secretary of State for which the response or action taken has been inadequate.

(e) NOTIFICATION.—Funds made available for Mexico in subchapter A shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

(f) SPENDING PLAN.—Not later than 45 days after the date of the enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a detailed spending plan for funds appropriated or otherwise made available for Mexico in subchapter A, which shall include a strategy for combating drug trafficking and related violence and organized crime, judicial reform, preventing corruption, and strengthening the rule of law, with concrete goals, actions to be taken, budget proposals, and anticipated results.

(g) CONSULTATION.—Not later than 90 days after the date of the enactment of this Act, and every 120 days thereafter until September 30, 2010, the Secretary of State shall consult with Mexican and internationally recognized human rights organizations on progress in meeting the requirements described in subsection (b).

CENTRAL AMERICA

SEC. 1406. (a) ASSISTANCE FOR THE COUNTRIES OF CENTRAL AMERICA.—Of the funds appropriated in subchapter A under the headings ''International Narcotics Control and Law Enforcement'' and ''Economic Support Fund'', not more than $100,000,000 may be

made available for assistance for the countries of Central America, Haiti, and the Dominican Republic only to combat drug trafficking and related violence and organized crime, and for judicial reform, anti-corruption, and rule of law activities: *Provided*, That of the funds appropriated under the heading ''Economic Support Fund'', $40,000,000 shall be made available through the United States Agency for International Development for an Economic and Social Development Fund for Central America: *Provided further*, That of the funds made available pursuant to this section, $5,000,000 shall be made available for assistance for Haiti and $5,000,000 shall be made available for assistance for the Dominican Republic: *Provided further*, That of the funds made available pursuant to this section that are available for assistance for Guatemala, not less than $1,000,000 shall be made available for a United States contribution to the International Commission Against Impunity in Guatemala: *Provided further*, That none of the funds shall be made available for budget support or as cash payments: *Provided further*, That, with the exception of the first and third provisos in this section, none of the funds shall be available for obligation until the Secretary of State determines and reports to the Committees on Appropriations that vetting procedures are in place to ensure that members and units of the military and police forces of the countries of Central America, Haiti and the Dominican Republic that receive assistance pursuant to this section have not been involved in human rights violations or corrupt acts.

(b) ALLOCATION OF FUNDS.—Twenty-five percent of the funds made available by subchapter A for assistance for the countries of Central America, Haiti and the Dominican Republic under the heading ''International Narcotics Control and Law Enforcement'' may be obligated only after the Secretary of State determines and reports to the Committees on Appropriations that the government of such country is—

(1) establishing a police complaints commission with authority and independence to receive complaints and carry out effective investigations;

(2) implementing reforms to improve the capacity and ensure the independence of the judiciary; and

(3) suspending, prosecuting and punishing members of the military and police forces who have been credibly alleged to have committed violations of human rights and corrupt acts.

(c) REPORT.—The report required in subsection (b) shall include actions taken with respect to each requirement and the cases or issues brought to the attention of the Secretary for which the response or action taken has been inadequate.

(d) NOTIFICATION.—Funds made available for assistance for the countries of Central America, Haiti and the Dominican Republic in subchapter A shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

(e) SPENDING PLAN.—Not later than 45 days after enactment of this Act the Secretary of State shall submit to the Committees on Appropriations a detailed spending plan for funds appropriated or otherwise made available for the countries of Central America, Haiti and the Dominican Republic in subchapter A, which shall include a strategy for combating drug trafficking and related violence and organized crime, judicial reform, preventing corruption, and strengthening the rule of law, with concrete goals, actions to be taken, budget proposals and anticipated results.

(f) CONSULTATION.—Not later than 90 days after the date of enactment of this Act and every 120 days thereafter until September 30, 2010, the Secretary of State shall consult with internationally recognized human rights organizations, and human rights organizations in the countries of Central America, Haiti and the Dominican Republic receiving assistance pursuant to this section, on progress in meeting the requirements described in subsection (b).

(g) DEFINITION.—For the purposes of this section, the term ''countries of Central America'' means Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

TECHNICAL PROVISIONS

SEC. 1407. (a) ADMINISTRATIVE EXPENSES.—Of the funds appropriated or otherwise made available under the heading ''Economic Support Fund'' by title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161), up to $7,800,000 may be made available, in addition to amounts otherwise available for such purposes, for administrative expenses of the United States Agency for International Development for alternative development programs in the Andean region of South America. These funds may be used to reimburse funds appropriated under the heading ''Operating Expenses of the United States Agency for International Development'' for obligations incurred for the purposes provided under this section prior to enactment of this Act.

(b) AUTHORITY.—Funds appropriated or otherwise made available by title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161) under the heading ''Economic Support Fund'' that are available for a competitively awarded grant for nuclear security initiatives relating to North Korea shall be made available notwithstanding any other provision of law.

(c) EXTENSION OF AUTHORITY.—Not more than $1,350,000 of the funds appropriated or otherwise made available under the heading ''Foreign Military Financing Program'' by the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161) that were previously transferred to and merged with ''Diplomatic and Consular Programs'' may be made available for any purposes authorized for that account, of which up to $500,000 shall be made available to increase the capacity of the United States Embassy in Mexico City to vet members and units of Mexican military and police forces that receive assistance made available by this Act and to monitor the uses of such assistance.

(d) REIMBURSEMENTS.—Any agreement for the transfer or allocation of funds appropriated by this Act, or prior Acts, entered into between the United States Agency for International Development and another agency of the United States Government under the authority of section 632(a) of the Foreign Assistance Act of 1961 or any comparable provision of law, shall include the provision of sufficient funds to fully reimburse the United States Agency for International Development for the administrative costs, including the cost of direct hire personnel, incurred in implementing and managing the programs and activities under such transfer or allocation. Such funds transferred or allocated to the United States Agency for International Development for administrative costs shall be transferred to and merged with ''Operating Expenses of the United States Agency for International Development''.

(e) EXCEPTION.—Section 10002 of title X of this Act shall not apply to this section.

(f) SPENDING AUTHORITY.—Funds made available by this chapter may be expended notwithstanding section 699K of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161).

BUYING POWER MAINTENANCE ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

SEC. 1408. (a) Of the funds appropriated under the heading ''Diplomatic and Consular Programs'' and allocated by section 3810 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28), $26,000,000 shall be transferred to and merged with funds in the ''Buying Power Maintenance Account'': *Provided*, That of the funds made available by this chapter up to an additional $74,000,000 may be transferred to and merged with the ''Buying Power Maintenance Account'', subject to the regular notification procedures of the Committees on Appropriations and in accordance with the procedures in section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706). Any funds transferred pursuant to this section shall be available, without fiscal year limitation, pursuant to section 24 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696).

(b) Section 24(b)(7) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(b)(7)) is amended by amending subparagraph (D) to read as follows:

''(D) The authorities contained in this paragraph may be exercised only with respect to funds appropriated or otherwise made available after fiscal year 2008.''.

SERBIA

SEC. 1409. (a) Of the funds made available for assistance for Serbia under the heading ''Assistance for Eastern Europe and the Baltic States'' by title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161), an amount equivalent to the costs of damage to the United States Embassy in Belgrade, Serbia, as estimated by the Secretary of State, resulting from the February 21, 2008 attack on such Embassy, shall be transferred to, and merged with, funds provided under the heading ''Embassy Security, Construction, and Maintenance'' to be used for necessary repairs or future construction.

(b) The requirements of subsection (a) shall not apply if the Secretary of State certifies to the Committees on Appropriations that the Government of Serbia has provided full compensation to the Department of State for damages to the United States Embassy in Belgrade, Serbia resulting from the February 21, 2008 attack on such Embassy.

(c) Section 10002 of title X of this Act shall not apply to this section.

RESCISSIONS

(INCLUDING RESCISSIONS)

SEC. 1410. (a) WORLD FOOD PROGRAM.—

(1) For an additional amount for a contribution to the World Food Program to assist farmers in countries affected by food shortages to increase crop yields, notwithstanding any other provision of law, $20,000,000, to remain available until expended.

(2) Of the funds appropriated under the heading ''Andean Counterdrug Initiative'' in prior acts making appropriations for foreign operations, export financing, and related programs, $20,000,000 are rescinded.

(b) SUDAN.—

(1) For an additional amount for ''International Narcotics Control and Law Enforcement'', $10,000,000, for assistance for Sudan to support formed police units, to remain available until September 30, 2009, and subject to prior consultation with the Committees on Appropriations.

(2) Of the funds appropriated under the heading ''International Narcotics Control and Law Enforcement'' in prior acts making appropriations for foreign operations, export financing, and related programs, $10,000,000 are rescinded.

(c) MEXICO.—Of the unobligated balances of funds appropriated for ''Iraq Relief and Reconstruction Fund'' in prior Acts making appropriations for foreign operations, export financing, and related programs, $50,000,000 are rescinded, notwithstanding section 1402(g) of this Act.

(d) HORN OF AFRICA.—

(1) For an additional amount for ''Economic Support Fund'', $40,000,000 for programs to promote development and counter extremism in the Horn of Africa, to be administered by the United States Agency for International Development, and to remain available until September 30, 2009.

(2) Of the unobligated balances of funds appropriated for ''Iraq Relief and Reconstruction Fund'' in prior Acts making appropriations for foreign operations, export financing, and related programs, $40,000,000 are rescinded, notwithstanding section 1402(g) of this Act.

(e) EXCEPTION.—Section 10002 of title X of this Act shall not apply to subsections (a) and (b) of this section.

DARFUR PEACEKEEPING

SEC. 1411. Funds appropriated under the headings ''Foreign Military Financing Program'' and ''Peacekeeping Operations'' by the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161) and by prior Acts making appropriations for foreign operations, export financing, and related programs may be used to transfer or lease helicopters necessary to the operations of the African Union/United Nations peacekeeping operation in Darfur, Sudan, that was established pursuant to United Nations Security Council Resolution 1769. The President may utilize the authority of sections 506 or 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318, 2321j) or section 61 of the Arms Export Control Act (22 U.S.C. 2796) in order to effect such transfer or lease, notwithstanding any other provision of law except for sections 502B(a)(2), 620A and 620J of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2), 2371, 2378d) and section 40A of the Arms Export Control Act (22 U.S.C. 2780). Any exercise of the authority of section 506 of the Foreign Assistance Act pursuant to this section may include the authority to acquire helicopters by contract.

FOOD SECURITY AND CYCLONE NARGIS RELIEF

(INCLUDING RESCISSION OF FUNDS)

SEC. 1412. (a) For an additional amount for ''International Disaster Assistance'', $225,000,000, to address the international food crisis globally and for assistance for Burma to address the effects of Cyclone Nargis: *Provided*, That not less than $125,000,000 should be made available for the local or regional purchase and distribution of food to address the international food crisis: *Provided further*, That notwithstanding any other provision of law, none of the funds appropriated under this heading may be made available for assistance for the State Peace and Development Council.

(b) Of the unexpended balances of funds appropriated under the heading ''Millennium Challenge Corporation'' in prior Acts making appropriations for foreign operations, export financing and related programs, $225,000,000 are rescinded.

(c) Section 10002 of title X of this Act shall not apply to this section.

SOUTH AFRICA

SEC. 1413. The Secretary of State, after consultation with the Attorney General and the Secretary of Homeland Security, may determine, in the Secretary's sole and unreviewable discretion considering the foreign policy interests of the United States, that for activities undertaken in opposition to apartheid rule, subsections (a)(2) and (a)(3)(B) of 8 U.S.C. 1182, as amended, shall not apply.

JORDAN

(INCLUDING RESCISSION OF FUNDS)

SEC. 1414. (a) For an additional amount for ''Economic Support Fund'' for assistance for Jordan, $100,000,000, to remain available until September 30, 2009.

(b) For an additional amount for ''Foreign Military Financing Program'' for assistance for Jordan, $200,000,000, to remain available until September 30, 2009.

(c) Of the unexpended balances of funds appropriated under the heading ''Millennium Challenge Corporation'' in prior Acts making appropriations for foreign operations, export financing, and related programs, $300,000,000 are rescinded.

(d) Section 10002 of title X of this Act shall not apply to this section.

ALLOCATIONS

SEC. 1415. (a) Funds provided by this chapter for the following accounts shall be made available for programs and countries in the amounts contained in the respective tables included in the explanatory statement accompanying this Act:

''Diplomatic and Consular Programs''.

''Economic Support Fund''.

(b) Any proposed increases or decreases to the amounts contained in such tables in the statement accompanying this Act shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

REPROGRAMMING AUTHORITY

SEC. 1416. Notwithstanding any other provision of law, to include minimum funding requirements or funding directives, funds made available under the headings ''Development Assistance'' and ''Economic Support Fund'' in prior Acts making appropriations for foreign operations, export financing, and related programs may be made available to address critical food shortages, subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

SPENDING PLANS AND NOTIFICATION PROCEDURES

SEC. 1417. (a) SUBCHAPTER A SPENDING PLAN.—Not later than 45 days after the enactment of this Act the Secretary of State shall submit to the Committees on Appropriations a report detailing planned expenditures for funds appropriated under the headings in subchapter A, except for funds appropriated under the headings ''International Disaster Assistance'', ''Migration and Refugee Assistance'', and ''United States Emergency Refugee and Migration Assistance Fund''.

(b) SUBCHAPTER B SPENDING PLAN.—The Secretary of State shall submit to the Committees on Appropriations not later than November 1, 2008, and prior to the initial obligation of funds, a detailed spending plan for funds appropriated or otherwise made available in subchapter B, except for funds appropriated under the headings ''International Disaster Assistance'', ''Migration and Refugee Assistance'', and ''United States Emergency Refugee and Migration Assistance Fund''.

(c) NOTIFICATION.—Funds made available in this chapter shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

TERMS AND CONDITIONS

SEC. 1418. Unless otherwise provided for in this Act, funds appropriated, or otherwise made available, by this chapter shall be available under the authorities and conditions provided in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161).

TITLE II

DOMESTIC MATTERS

CHAPTER 1

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for salaries and expenses of the Food and Drug Administration, $265,000,000, to remain available until September 30, 2009: *Provided*, That of the amount provided: (1) $119,000,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) $48,500,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs; (3) $23,500,000 shall be for the Center for Biologics Evaluation and Research and related field activities in the Office of Regulatory Affairs; (4) $10,700,000 shall be for the Center for Veterinary Medicine and related field activities in the Office of Regulatory Affairs; (5) $35,500,000 shall be for the Center for Devices and Radiological Health and related field activities in the Office of Regulatory Affairs; (6) $6,000,000 shall be for the National Center for Toxicological Research; and (7) $21,800,000 shall be for other activities, including the Office of the Commissioner, the Office of Scientific and Medical Programs; the Office of Policy, Planning and Preparedness; the Office of International and Special Programs; the Office of Operations; and central services for these offices.

BUILDINGS AND FACILITIES

For an additional amount for plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $10,000,000, to remain available until expended.

CHAPTER 2

DEPARTMENT OF COMMERCE

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

For an additional amount for ''Periodic Censuses and Programs'', $210,000,000, to remain available until expended, for necessary expenses related to the 2010 Decennial Census: *Provided*, That not less than $3,000,000 shall be transferred to the ''Office of Inspector General'' at the Department of Commerce for necessary expenses associated with oversight activities of the 2010 Decennial Census: *Provided further*, That $1,000,000 shall be used only for a reimbursable agreement with the Defense Contract Management Agency to provide continuing contract management oversight of the 2010 Decennial Census.

DEPARTMENT OF JUSTICE

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $50,000,000, to remain available until September 30, 2009, for the United States Marshals Service to implement and enforce the Adam Walsh Child Protection and Safety Act (Public Law 109–248) to track down and arrest non-compliant sex offenders.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $178,000,000, to remain available until September 30, 2008.

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for the Edward Byrne Memorial Justice Assistance Grant program as authorized by subpart 1 of part E of title I of Omnibus Crime Control and Safe Street Act of 1968 (''1968 Act''), (except that section 1001(c), and the special rules for Puerto Rico under section 505(g), of the 1968 Act, shall not apply for purposes of this Act), $490,000,000, to remain available until September 30, 2008.

For an additional amount for ''State and Local Law Enforcement Assistance'', $100,000,000 for competitive grants, to remain available until expended, to provide assistance and equipment to local law enforcement along the Southern border and in High-Intensity Drug Trafficking Areas to combat criminal narcotic activity stemming from the Southern border, of which $10,000,000 shall be for the ATF Project Gunrunner.

SCIENCE

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RETURN TO FLIGHT

For necessary expenses, not otherwise provided for, in carrying out return to flight activities associated with the space shuttle and activities from which funds were transferred to accommodate return to flight activities, $200,000,000, to remain available until September 30, 2009 with such sums as determined by the Administrator of the National Aeronautics and Space Administration as available for transfer to and ''Science, Aeronautics, Exploration'', and ''Exploration Capabilities'' for restoration of funds previously reallocated to meet return to flight activities.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For additional expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), $150,000,000, to remain available until September 30, 2009.

EDUCATION AND HUMAN RESOURCES

For additional expenses in carrying out science and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), $50,000,000, to remain available until September 30, 2009.

GENERAL PROVISION—THIS CHAPTER

SEC. 2201. (a) Section 3008(a) of the Digital Television Transition and Public Safety Act of 2005 is amended—

(1) by inserting ''(1) IN GENERAL.—'' before ''The Assistant Secretary''; and

(2) by adding at the end thereof the following:

''(2) USE OF FUNDS.—As soon as practicable after the date of enactment of this Act, the Assistant Secretary shall make a determination, which the Assistant Secretary may adjust from time to time, with respect to whether the full amount provided under paragraph (1) will be needed for payments under that paragraph. If the Assistant Secretary determines that the full amount will not be needed for payments authorized by paragraph (1), the Assistant Secretary may use the remaining amount for consumer education and technical assistance regarding the digital television transition and the availability of the digital-to-analog converter box program (in addition to any amounts expended for such purpose under 3005(c)(2)(A) of this title), including partnering with, providing grants to, and contracting with non-profit organizations or public interest groups in achieving these efforts. If the Assistant Secretary initiates such an education program, the Assistant Secretary shall develop a plan to address the educational and technical assistance needs of vulnerable populations, such as senior citizens, individuals residing in rural and remote areas, and minorities, including, where appropriate, education plans focusing on the need for analog pass-through digital converter boxes in areas served by low power or translator stations, and shall consider the speed with which these objectives can be accomplished to the greatest public benefit.''.

(b) Section 3009(a) of the Deficit Reduction Act of 2005 (Public Law 109–171) is amended—

(1) by striking ''fiscal year 2009'' and inserting ''fiscal years 2009 through 2012''; and

(2) by striking ''no earlier than October 1, 2010'' and inserting ''on or after February 18, 2009''.

CHAPTER 3

DEPARTMENT OF ENERGY

NON-DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for ''Non-Defense Environmental Cleanup'', $5,000,000, to remain available until expended.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For an additional amount for ''Uranium Enrichment Decontamination and Decommissioning Fund'', $52,000,000, to remain available until expended.

SCIENCE

For an additional amount for ''Science'', $100,000,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for ''Defense Environmental Cleanup'', $243,000,000, to remain available until expended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2301. (a) Subject to subsection (b), the Secretary of Energy shall continue the cooperative agreement numbered DE–FC 26–06NT42073, as in effect on the date of enactment of this Act, through March 30, 2009.

(b) During the period beginning on the date of enactment of this Act and ending on March 30, 2009—

(1) the agreement described in subsection (a) may not be terminated except by the mutual consent of the parties to the agreement; and

(2) funds may be expended under the agreement only to complete and provide information and documentation to the Department of Energy.

SEC. 2302. INCENTIVES FOR ADDITIONAL DOWNBLENDING OF HIGHLY ENRICHED URANIUM BY THE RUSSIAN FEDERATION. The USEC Privatization Act (42 U.S.C. 2297h et seq.) is amended—

(1) in section 3102, by striking ''For purposes'' and inserting ''Except as provided in section 3112A, for purposes'';

(2) in section 3112(a), by striking ''The Secretary'' and inserting ''Except as provided in section 3112A(d), the Secretary''; and

(3) by inserting after section 3112 the following:

''SEC. 3112A. INCENTIVES FOR ADDITIONAL DOWNBLENDING OF HIGHLY ENRICHED URANIUM BY THE RUSSIAN FEDERATION.

''(a) DEFINITIONS.—In this section:

''(1) COMPLETION OF THE RUSSIAN HEU AGREEMENT.—The term 'completion of the Russian HEU Agreement' means the importation into the United States from the Russian Federation pursuant to the Russian HEU Agreement of uranium derived from the downblending of not less than 500 metric tons of highly enriched uranium of weapons origin.

''(2) DOWNBLENDING.—The term 'downblending' means processing highly enriched uranium into a uranium product in any form in which the uranium contains less than 20 percent uranium-235.

''(3) HIGHLY ENRICHED URANIUM.—The term 'highly enriched uranium' has the meaning given that term in section 3102(4).

''(4) HIGHLY ENRICHED URANIUM OF WEAPONS ORIGIN.—The term 'highly enriched uranium of weapons origin' means highly enriched uranium that—

''(A) contains 90 percent or more uranium-235; and

''(B) is verified by the Secretary of Energy to be of weapons origin.

''(5) LOW-ENRICHED URANIUM.—The term 'low-enriched uranium' means a uranium product in any form, including uranium hexafluoride (UF_6) and uranium oxide (UO_2), in which the uranium contains less than 20 percent uranium-235, without regard to whether the uranium is incorporated into fuel rods or complete fuel assemblies.

''(6) RUSSIAN HEU AGREEMENT.—The term 'Russian HEU Agreement' has the meaning given that term in section 3102(11).

''(7) URANIUM-235.—The term 'uranium-235' means the isotope ^{235}U.

''(b) STATEMENT OF POLICY.—It is the policy of the United States to support the continued downblending of highly enriched uranium of weapons origin in the Russian Federation in order to protect the essential security interests of the United States with respect to the nonproliferation of nuclear weapons.

''(c) PROMOTION OF DOWNBLENDING OF RUSSIAN HIGHLY ENRICHED URANIUM.—

''(1) INCENTIVES FOR THE COMPLETION OF THE RUSSIAN HEU AGREEMENT.—Prior to the completion of the Russian HEU Agreement, the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation and is not imported pursuant to the Russian HEU Agreement may not exceed the following amounts:

''(A) In each of the calendar years 2008 and 2009, not more than 22,500 kilograms.

''(B) In each of the calendar years 2010 and 2011, not more than 45,000 kilograms.

''(C) In calendar year 2012 and each calendar year thereafter through the calendar year of the completion of the Russian HEU Agreement, not more than 67,500 kilograms.

''(2) INCENTIVES TO CONTINUE DOWNBLENDING RUSSIAN HIGHLY ENRICHED URANIUM AFTER THE COMPLETION OF THE RUSSIAN HEU AGREEMENT.—

''(A) IN GENERAL.—In each calendar year beginning after the calendar year of the completion of the Russian HEU Agreement and before the termination date described in paragraph (8), the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin, may not exceed 400,000 kilograms.

''(B) ADDITIONAL IMPORTS.—

''(i) IN GENERAL.—In addition to the amount authorized to be imported under subparagraph (A) and except as provided in clause (ii), 20 kilograms of low-enriched uranium, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin, may be imported for

every 3 kilograms of Russian highly enriched uranium of weapons origin that was downblended in the preceding calendar year, subject to the verification of the Secretary of Energy under paragraph (10).

''(ii) MAXIMUM ANNUAL IMPORTS.—Not more than 200,000 kilograms of low-enriched uranium may be imported in a calendar year under clause (i).

''(3) EXCEPTION WITH RESPECT TO INITIAL CORES.—The import limitations described in paragraphs (1) and (2) shall not apply to low-enriched uranium produced in the Russian Federation that is imported into the United States for use in the initial core of a new nuclear reactor.

''(4) ANNUAL ADJUSTMENT.—

''(A) IN GENERAL.—Beginning in the second calendar year after the calendar year of the completion of the Russian HEU Agreement, the Secretary of Energy shall increase or decrease the amount of low-enriched uranium that may be imported in a calendar year under paragraph (2) (including the amount of low-enriched uranium that may be imported for each kilogram of highly enriched uranium downblended under paragraph (2)(B)(i)) by a percentage equal to the percentage increase or decrease, as the case may be, in the average amount of uranium loaded into nuclear power reactors in the United States in the most recent 3-calendar-year period for which data are available, as reported by the Energy Information Administration of the Department of Energy, compared to the average amount of uranium loaded into such reactors during the 3-calendar-year period beginning on January 1, 2011, as reported by the Energy Information Administration.

''(B) PUBLICATION OF ADJUSTMENTS.—As soon as practicable, but not later than July 31 of each calendar year, the Secretary of Energy shall publish in the Federal Register the amount of low-enriched uranium that may be imported in the current calendar year after the adjustment under subparagraph (A).

''(5) AUTHORITY FOR ADDITIONAL ADJUSTMENT.—In addition to the annual adjustment under paragraph (4), the Secretary of Commerce may adjust the import limitations under paragraph (2)(A) for a calendar year if the Secretary—

''(A) in consultation with the Secretary of Energy, determines that the available supply of low-enriched uranium from the Russian Federation and the available stockpiles of uranium of the Department of Energy are insufficient to meet demand in the United States in the following calendar year; and

''(B) notifies Congress of the adjustment not less than 45 days before making the adjustment.

''(6) EQUIVALENT QUANTITIES OF LOW-ENRICHED URANIUM IMPORTS.—

''(A) IN GENERAL.—The import limitations described in paragraphs (1) and (2) are expressed in terms of uranium containing 4.4 percent uranium-235 and a tails assay of 0.3 percent.

''(B) ADJUSTMENT FOR OTHER URANIUM.—Imports of low-enriched uranium under paragraphs (1) and (2) shall count against the import limitations described in such paragraphs in amounts calculated as the quantity of low-enriched uranium containing 4.4 percent uranium-235 necessary to equal the total amount of uranium-235 contained in such imports.

''(7) DOWNBLENDING OF OTHER HIGHLY ENRICHED URANIUM.—

''(A) IN GENERAL.—The downblending of highly enriched uranium not of weapons origin may be counted for purposes of paragraph (2)(B) or (8)(B), subject to verification under paragraph (10), if the Secretary of Energy determines that the highly enriched uranium to be downblended poses a risk to the national security of the United States.

''(B) EQUIVALENT QUANTITIES OF HIGHLY ENRICHED URANIUM.—For purposes of determining the additional low-enriched uranium imports allowed under paragraph (2)(B) and for purposes of paragraph (8)(B), highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A) shall count as downblended highly enriched uranium of weapons origin in amounts calculated as the quantity of highly enriched uranium containing 90 percent uranium-235 necessary to equal the total amount of uranium-235 contained in the highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A).

''(8) TERMINATION OF IMPORT RESTRICTIONS AFTER DOWNBLENDING OF AN ADDITIONAL 300 METRIC TONS OF HIGHLY ENRICHED URANIUM.—The provisions of this subsection shall terminate on the later of—

''(A) December 31, 2020; or

''(B) the date on which the Secretary of Energy certifies to Congress that, after the completion of the Russian HEU Agreement, not less than an additional 300 metric tons of Russian highly enriched uranium of weapons origin have been downblended.

''(9) SPECIAL RULE IF IMPORTATION UNDER RUSSIAN HEU AGREEMENT TERMINATES EARLY.—Notwithstanding any other provision of law, no low-enriched uranium produced in the Russian Federation that is not derived from highly enriched uranium of weapons origin, including low-enriched uranium obtained under contracts for separative work units, may be imported into the United States if, before the completion of the Russian HEU Agreement, the Secretary of Energy determines that the Russian Federation has taken deliberate action to disrupt or halt the importation into the United States of low-enriched uranium under the Russian HEU Agreement.

''(10) TECHNICAL VERIFICATIONS BY SECRETARY OF ENERGY.—

''(A) IN GENERAL.—The Secretary of Energy shall verify the origin, quantity, and uranium-235 content of the highly enriched uranium downblended for purposes of paragraphs (2)(B), (7), and (8)(B).

''(B) METHODS OF VERIFICATION.—In conducting the verification required under subparagraph (A), the Secretary of Energy shall employ the transparency measures provided for in the Russian HEU Agreement for monitoring the downblending of Russian highly enriched uranium of weapons origin and such other methods as the Secretary determines appropriate.

''(11) ENFORCEMENT OF IMPORT LIMITATIONS.—The Secretary of Commerce shall be responsible for enforcing the import limitations imposed under this subsection and shall enforce such import limitations in a manner that imposes a minimal burden on the commercial nuclear industry.

''(12) EFFECT ON OTHER AGREEMENTS.—

''(A) RUSSIAN HEU AGREEMENT.—Nothing in this section shall be construed to modify the terms of the Russian HEU Agreement, including the provisions of the Agreement relating to the amount of low-enriched uranium that may be imported into the United States.

''(B) OTHER AGREEMENTS.—If a provision of any agreement between the United States and the Russian Federation, other than the Russian HEU Agreement, relating to the importation of low-enriched uranium into the United States conflicts with a provision of this section, the provision of this section shall supersede the provision of the agreement to the extent of the conflict.

''(d) DOWNBLENDING OF HIGHLY ENRICHED URANIUM IN THE UNITED STATES.—The Secretary of Energy may sell uranium in the jurisdiction of the Secretary, including downblended highly enriched uranium, at fair market value to a licensed operator of a nuclear reactor in the United States—

''(1) in the event of a disruption in the nuclear fuel supply in the United States; or

''(2) after a determination of the Secretary under subsection (c)(9) that the Russian Federation has taken deliberate action to disrupt or halt the importation into the United States of low-enriched uranium under the Russian HEU Agreement.''.

CHAPTER 4

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2401. VETERANS BUSINESS RESOURCE CENTERS. There are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008, $600,000 for the ''Salaries and Expenses'' account of the Small Business Administration, for grants in the amount of $200,000 to veterans business resource centers that received grants from the National Veterans Business Development Corporation in fiscal years 2006 and 2007.

SEC. 2402. (A) IN GENERAL.—Section 604(a)(5) of title 28, United States Code, is amended by inserting after ''hold office during good behavior,'' the following: ''bankruptcy judges appointed under chapter 6 of title 28; territorial district court judges appointed under section 24 of the Organic Act of Guam (48 U.S.C. 1424b), section 1(b) of the Act of November 8, 1977 (48 U.S.C. 1821), or section 24(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614(a)); bankruptcy judges retired under section 377 of title 28; and judges retired under section 373 of title 28,''.

(b) CONSTRUCTION.—For purposes of construing and applying chapter 87 of title 5, United States Code, including any adjustment of insurance rates by regulation or otherwise, the following categories of judicial officers shall be deemed to be judges of the United States as described under section 8701 of title 5, United States Code:

(1) Bankruptcy judges appointed under chapter 6 of title 28, United States Code.

(2) Territorial district court judges appointed under section 24 of the Organic Act of Guam (48 U.S.C. 1424b), section 1(b) of the Act of November 8, 1977 (48 U.S.C. 1821), or section 24(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614(a)).

(3) Bankruptcy judges retired under section 377 of title 28, United States Code.

(4) Judges retired under section 373 of title 28, United States Code.

(c) EFFECTIVE DATE.—Subsection (b) and the amendment made by subsection (a) shall apply with respect to any payment made on or after the first day of the first applicable pay period beginning on or after the date of enactment of Public Law No. 110–177.

SEC. 2403. Life Insurance for Tax Court Judges Age 65 or Over. (a) IN GENERAL.—Section 7472 of the Internal Revenue Code of 1986 is amended by inserting after the word ''imposed'' where it appears in the second sentence the following phrase: ''after April 24, 1999, that is incurred''.

(b) EFFECTIVE DATE.—This amendment shall take effect as if included in the amendment made by section 852 of the Pension Protection Act of 2006.

CHAPTER 5

GENERAL PROVISION—THIS CHAPTER

SEC. 2501. SECURE RURAL SCHOOLS ACT AMENDMENT. (a) For fiscal year 2008, payments shall be made from any revenues, fees, penalties, or miscellaneous receipts described in sections 102(b)(3) and 103(b)(2) of the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393; 16 U.S.C. 500 note), not to exceed

$100,000,000, and the payments shall be made, to the maximum extent practicable, in the same amounts, for the same purposes, and in the same manner as were made to States and counties in 2006 under that Act.

(b) There is appropriated $400,000,000, to remain available until December 31, 2008, to be used to cover any shortfall for payments made under this section from funds not otherwise appropriated.

(c) Titles II and III of Public Law 106–393 are amended, effective September 30, 2006, by striking ''2007'' and ''2008'' each place they appear and inserting ''2008'' and ''2009'', respectively.

CHAPTER 6

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for ''State Unemployment Insurance and Employment Service Operations'' for grants to the States for the administration of State unemployment insurance, $110,000,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund, to be used for unemployment insurance workloads experienced by the States through September 30, 2008, which shall be available for Federal obligation through December 31, 2008.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for ''Disease Control, Research, and Training'', $26,000,000, for the prevention of and response to medical errors including research, education and outreach activities; of which no less than $5,000,000 shall be for responding to outbreaks of communicable diseases related to the re-use of syringes in outpatient clinics, including reimbursement of local health departments for testing and genetic sequencing of persons potentially exposed.

NATIONAL INSTITUTES OF HEALTH

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of the Director, National Institutes of Health'', $400,000,000, which shall be used to support additional scientific research in the Institutes and Centers of the National Institutes of Health: *Provided*, That these funds are to be transferred to the Institutes and Centers on a pro-rata basis: *Provided further*, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the National Institutes of Health: *Provided further*, That none of these funds are to be transferred to the Buildings and Facilities appropriation, the Center for Scientific Review, the Center for Information Technology, the Clinical Center, the Global Fund for HIV/AIDS, Tuberculosis and Malaria, and the Office of the Director except for the NIH Common Fund within the Office of the Director, which shall receive its pro-rata share of the increase.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2601. (a) In addition to amounts otherwise made available for fiscal year 2008, there are appropriated, out of any money in the Treasury not otherwise appropriated—

(1) $500,000,000 for fiscal year 2008, for making payments under subsections (a) through (d) of section 2604 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623); and

(2) $500,000,000 for fiscal year 2008, for making allotments under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)) that are made in such a manner as to ensure that each State's allotment percentage is the percentage the State would receive of funds allotted under section 2604(a) of such Act (42 U.S.C. 8623(a)), if the total amount appropriated for fiscal year 2008 and available to carry out such section 2604(a) had been less than $1,975,000,000.

(b) Funds appropriated under subsection (a)(2), and funds appropriated (but not obligated) prior to the date of enactment of this Act for making payments under section 2604(e) of such Act (42 U.S.C. 8623(e)), shall be released to States not later than 30 days after the date of enactment of this Act.

SEC. 2602. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES. (a) IN GENERAL.—Section 8104 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 189) is amended to read as follows:

''SEC. 8104. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES.

''(a) STUDY.—Beginning on the date that is 60 days after the date of enactment of this Act, and every year thereafter until the minimum wage in the respective territory is $7.25 per hour, the Government Accountability Office shall conduct a study to—

''(1) assess the impact of the minimum wage increases that occurred in American Samoa and the Commonwealth of the Northern Mariana Islands in 2007 and 2008, as required under Public Law 110–28, on the rates of employment and the living standards of workers, with full consideration of the other factors that impact rates of employment and the living standards of workers such as inflation in the cost of food, energy, and other commodities; and

''(2) estimate the impact of any further wage increases on rates of employment and the living standards of workers in American Samoa and the Commonwealth of the Northern Mariana Islands, with full consideration of the other factors that may impact the rates of employment and the living standards of workers, including assessing how the profitability of major private sector firms may be impacted by wage increases in comparison to other factors such as energy costs and the value of tax benefits.

''(b) REPORT.—No earlier than March 15, 2009, and not later than April 15, 2009, the Government Accountability Office shall transmit its first report to Congress concerning the findings of the study required under subsection (a). The Government Accountability Office shall transmit any subsequent reports to Congress concerning the findings of a study required by subsection (a) between March 15 and April 15 of each year.

''(c) ECONOMIC INFORMATION.—To provide sufficient economic data for the conduct of the study under subsection (a)—

''(1) the Department of Labor shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its household surveys and establishment surveys;

''(2) the Bureau of Economic Analysis of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its gross domestic product data; and

''(3) the Bureau of the Census of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its population estimates and demographic profiles from the American Community Survey,

with the same regularity and to the same extent as the Department or each Bureau collects and reports such data for the 50 States. In the event that the inclusion of American Samoa and the Commonwealth of the Northern Mariana Islands in such surveys and data compilations requires time to structure and implement, the Department of Labor, the Bureau of Economic Analysis, and the Bureau of the Census (as the case may be) shall in the interim annually report the best available data that can feasibly be secured with respect to such territories. Such interim reports shall describe the steps the Department or the respective Bureau will take to improve future data collection in the territories to achieve comparability with the data collected in the United States. The Department of Labor, the Bureau of Economic Analysis, and the Bureau of the Census, together with the Department of the Interior, shall coordinate their efforts to achieve such improvements.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

CHAPTER 7

RELATED AGENCY

AMERICAN BATTLE MONUMENTS COMMISSION

FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

For an additional amount for ''Foreign Currency Fluctuations Account'', $10,000,000, to remain available until expended, for purposes authorized by section 2109 of title 36, United States Code.

CHAPTER 8

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2801. Until January 1, 2009, an aircraft used by an air carrier in the operation specified in section 47528(e)(3) of title 49, United States Code, as of April 1, 2008, may continue to be operated under the provisions of that section by an air carrier that purchases or leases that aircraft after April 1, 2008, for conduct of the same operation. Operation of that aircraft under section 47528(e)(4) is authorized for the same time period.

SEC. 2802. Title 49, United States Code, is amended—

(1) by striking ''August 31, 2008,'' in section 44302(f)(1) and inserting ''August 31, 2009,'';

(2) by striking ''December 31, 2008,'' in section 44302(f)(1) and inserting ''December 31, 2009,''; and

(3) by striking ''December 31, 2008'' in section 44303(b) and inserting ''December 31, 2009''.

TITLE III

HURRICANES KATRINA AND RITA, AND OTHER NATURAL DISASTERS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FARM SERVICE AGENCY

EMERGENCY CONSERVATION PROGRAM

For the purposes of carrying out the Emergency Conservation Program, there is hereby appropriated $49,413,000, to remain available until expended.

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for ''Watershed and Flood Prevention Operations'', for emergency recovery operations, $130,464,000, to remain available until expended.

GENERAL PROVISION—THIS CHAPTER

(INCLUDING RESCISSION)

SEC. 3101. Of the funds made available in the second paragraph under the heading ''Rural Utilities Service, Rural Electrification and Telecommunications Loans Program Account'' in chapter 1 of division B of

the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109–148; 119 Stat. 2746), the Secretary may use an amount not to exceed $1,000,000 of remaining unobligated funds for the cost of loan modifications to rural electric loans made or guaranteed under the Rural Electrification Act of 1936, to respond to damage caused by any weather related events since Hurricane Katrina, to remain available until expended: *Provided*, That $1,000,000 of the remaining unobligated funds under such paragraph are rescinded.

CHAPTER 2

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for economic development assistance as provided by section 3082(a) of the Water Resources Development Act of 2007 (Public Law 110–114), $75,000,000, to remain available until September 30, 2009.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for ''Operations, Research, and Facilities'' for necessary expenses related to economic impacts associated with commercial fishery failures, fishery resource disasters, and regulations on commercial fishing industries, $75,000,000, to remain available until September 30, 2009.

DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for ''State and Local Law Enforcement Assistance'', for discretionary grants authorized by subpart 2 of part E, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as in effect on September 30, 2006, notwithstanding the provisions of section 511 of said Act, $75,000,000, to remain available until September 30, 2009: *Provided*, That the amount made available under this heading shall be for local law enforcement initiatives in the Gulf Coast region related to the aftermath of Hurricane Katrina.

GENERAL PROVISION—THIS CHAPTER

SEC. 3201. GULF OF MEXICO DESIGNATIONS. (a) Notwithstanding any other provision of law, no funds made available under this Act or any other Act for fiscal year 2008 or 2009 may be used to establish a national monument or otherwise convey protected status to any area in the marine environment of the Exclusive Economic Zone of the United States under the Act of June 8, 1906 (16 U.S.C. 431 et seq.).

(b) Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce may, as applicable, and in compliance with all requirements under title III of the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) (including the procedures for designation and implementation under section 304 of that Act (16 U.S.C. 1434)) with respect to any proposed protected area, submit to Congress a study of the proposed protected area.

CHAPTER 3

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION

For an additional amount for ''Construction'' for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, and for recovery from other natural disasters $5,033,345,000, to remain available until expended: *Provided*, That the Secretary of the Army is directed to use $4,362,000,000 of the funds appropriated under this heading to modify authorized projects in southeast Louisiana to provide hurricane and storm damage reduction and flood damage reduction in the greater New Orleans and surrounding areas to provide the levels of protection necessary to achieve the certification required for participation in the National Flood Insurance Program under the base flood elevations current at the time of this construction; $1,657,000,000 shall be used for the Lake Pontchartrain and Vicinity; $1,415,000,000 shall be used for the West Bank and Vicinity project; and $1,290,000,000 shall be for elements of the Southeast Louisiana Urban Drainage project, that are within the geographic perimeter of the West Bank and Vicinity and Lake Pontchartrain and Vicinity projects to provide for interior drainage of runoff from rainfall with a 10 percent annual exceedance probability: *Provided further*, That none of this $4,362,000,000 shall become available for obligation until October 1, 2008: *Provided further*, That non-Federal cost allocations for these projects shall be consistent with the cost-sharing provisions under which the projects were originally constructed: *Provided further*, That the $1,315,000,000 non-Federal cost share for these projects shall be repaid in accordance with provisions of section 103(k) of Public Law 99–662 over a period of 30 years: *Provided further*, That the expenditure of funds as provided above may be made without regard to individual amounts or purposes except that any reallocation of funds that are necessary to accomplish the established goals are authorized, subject to the approval of the House and Senate Committees on Appropriations: *Provided further*, That the Secretary of the Army is directed to use $604,745,000 of the funds appropriated under this heading to provide hurricane and storm damage reduction, flood damage reduction and ecosystem restoration along the Gulf Coast of Mississippi and surrounding areas generally as described in the Mobile District Engineer's Mississippi Coastal Improvements Program Comprehensive Plan Report; $173,615,000 shall be used for ecosystem restoration projects; $4,550,000 shall be used for the Moss Point Municipal Relocation project; $5,000,000 shall be used for the Waveland Floodproofing project; $150,000 shall be used for the Mississippi Sound Sub Aquatic Vegetation project; $15,430,000 shall be used for the Coast-wide Dune Restoration project; $397,000,000 shall be used for the Homeowners Assistance and Relocation project; and $9,000,000 shall be used for the Forrest Heights Hurricane and Storm Damage Reduction project: *Provided further*, That none of this $604,745,000 shall become available for obligation until October 1, 2008: *Provided further*, That these projects shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary requiring the non-Federal interests to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of the project and to hold and save the United States free from damages due to the construction or operation and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors: *Provided further*, That the $211,661,000 non-Federal cost share for these projects shall be repaid in accordance with the provisions of section 103(k) of Public Law 99–662 over a period of 30 years: *Provided further*, That the expenditure of funds as provided above may be made without regard to individual amounts or purposes except that any reallocation of funds that are necessary to accomplish the established goals are authorized, subject to the approval of the House and Senate Committees on Appropriations: *Provided further*, That the Secretary of the Army is directed to use $66,600,000 of the funds appropriated under this heading to address emergency situations at Corps of Engineers projects and rehabilitate and repair damages to Corps projects caused by recent natural disasters: *Provided further*, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for ''Mississippi River and Tributaries'' for recovery from natural disasters, $17,700,000, to remain available until expended to repair damages to Federal projects caused by recent natural disasters.

OPERATIONS AND MAINTENANCE

For an additional amount for ''Operations and Maintenance'' to dredge navigation channels and repair other Corps projects related to natural disasters, $338,800,000, to remain available until expended: *Provided*, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for ''Flood Control and Coastal Emergencies'', as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), for necessary expenses relating to the consequences of Hurricane Katrina and other hurricanes, and for recovery from other natural disasters, $3,368,400,000, to remain available until expended: *Provided*, That the Secretary of the Army is directed to use $2,926,000,000 of the funds appropriated under this heading to modify, at full Federal expense, authorized projects in southeast Louisiana to provide hurricane and storm damage reduction and flood damage reduction in the greater New Orleans and surrounding areas; $704,000,000 shall be used to modify the 17th Street, Orleans Avenue, and London Avenue drainage canals and install pumps and closure structures at or near the lakefront; $90,000,000 shall be used for stormproofing interior pump stations to ensure the operability of the stations during hurricanes, storms, and high water events; $459,000,000 shall be used for armoring critical elements of the New Orleans hurricane and storm damage reduction system; $53,000,000 shall be used to improve protection at the Inner Harbor Navigation Canal; $456,000,000 shall be used to replace or modify certain non-Federal levees in Plaquemines Parish to incorporate the levees into the existing New Orleans to Venice hurricane protection project; $412,000,000 shall be used for reinforcing or replacing flood walls, as necessary, in the existing Lake Pontchartrain and Vicinity project and the existing West Bank and Vicinity project to improve the performance of the systems; $393,000,000 shall be used for repair and restoration of authorized protections and floodwalls; $359,000,000 shall be to complete the authorized protection for the Lake Ponchartrain and Vicinity Project and for the West Bank and Vicinity Project: *Provided further*, That none of this $2,926,000,000 shall become available for obligation until October 1, 2008: *Provided further*, That any project using funds appropriated under this heading shall be initiated only

after non-Federal interests have entered into binding agreements with the Secretary requiring the non-Federal interests to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of the project and to hold and save the United States free from damages due to the construction or operation and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors: *Provided further*, That the Secretary of the Army, within available funds, is directed to continue the NEPA alternative evaluation of all options with particular attention to Options 1, 2 and 2a of the report to Congress, dated August 30, 2007, provided in response to the requirements of chapter 3, section 4303 of Public Law 110–28, and within 90 days of enactment of this Act provide the House and Senate Committees on Appropriations cost estimates to implement Options 1, 2 and 2a of the above cited report: *Provided further*, That the expenditure of funds as provided above may be made without regard to individual amounts or purposes except that any reallocation of funds that are necessary to accomplish the established goals are authorized, subject to the approval of the House and Senate Committees on Appropriations: *Provided further*, That $348,000,000 of the amount provided under this heading shall be used for barrier island restoration and ecosystem restoration to restore historic levels of storm damage reduction to the Mississippi Gulf Coast: *Provided further*, That none of this $348,000,000 shall become available for obligation until October 1, 2008: *Provided further*, That this work shall be carried out at full Federal expense: *Provided further*, That the Secretary of the Army is directed to use $94,400,000 of the funds appropriated under this heading to support emergency operations, to repair eligible projects nationwide, and for other activities in response to recent natural disasters: *Provided further*, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

GENERAL EXPENSES

For an additional amount for ''General Expenses'' for increased efforts by the Mississippi Valley Division to oversee emergency response and recovery activities related to the consequences of hurricanes in the Gulf of Mexico in 2005, $1,500,000, to remain available until expended.

CHAPTER 4

GENERAL PROVISION—THIS CHAPTER

SEC. 3401. (a) EXTENSION OF PARTICIPATION TERM FOR VICTIMS OF HURRICANE KATRINA.—

(1) RETROACTIVITY.—If a small business concern, while participating in any program or activity under the authority of paragraph (10) of section 7(j) of the Small Business Act (15 U.S.C. 636(j)), was located in a parish or county described in paragraph (2) and was affected by Hurricane Katrina of 2005, the period during which that small business concern is permitted continuing participation and eligibility in such program or activity shall be extended for an additional 24 months.

(2) PARISHES AND COUNTIES COVERED.—Paragraph (1) applies to any parish in the State of Louisiana, or any county in the State of Mississippi or in the State of Alabama, that has been designated by the Administrator as a disaster area by reason of Hurricane Katrina of 2005 under disaster declaration 10176, 10177, 10178, 10179, 10180, or 10181.

(3) REVIEW AND COMPLIANCE.—The Administrator shall ensure that the eligibility for continuing participation by each small business concern that was participating in a program or activity covered by paragraph (1) before the date of enactment of this Act is reviewed and brought into compliance with this subsection.

(b) DEFINITIONS.—In this section—

(1) the term ''Administrator'' means the Administrator of the Small Business Administration; and

(2) the term ''small business concern'' has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632).

CHAPTER 5

GENERAL PROVISIONS—THIS CHAPTER

SEC. 3501. Notwithstanding any other provision of law, and not later than 30 days after the date of submission of a request for a single payment, the Federal Emergency Management Agency shall provide a single payment for any eligible costs under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act for any police station, fire station, or criminal justice facility that was damaged by Hurricane Katrina of 2005 or Hurricane Rita of 2005: *Provided*, That nothing in this section may be construed to alter the appeal or review process relating to assistance provided under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act: *Provided further*, That the Federal Emergency Management Agency shall not reduce the amount of assistance provided under section 406(c)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act for such facilities.

SEC. 3502. Until such time as the updating of flood insurance rate maps under section 19 of the Flood Modernization Act of 2007 is completed (as determined by the district engineer) for all areas located in the St. Louis District of the Mississippi Valley Division of the Corps of Engineers, the Administrator of the Federal Emergency Management Agency shall not adjust the chargeable premium rate for flood insurance under this section for any type or class of property located in an area in that District nor require the purchase of flood insurance for any type or class of property located in an area in that District not subject to such purchase requirement prior to the updating of such national flood insurance program rate map: *Provided*, That for purposes of this section, the term ''area'' does not include any area (or subdivision thereof) that has chosen not to participate in the flood insurance program under this section as of the date of enactment of this Act.

CHAPTER 6

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Wildland Fire Management'', $125,000,000, to remain available until expended, of which $100,000,000 is for emergency wildland fire suppression activities, and of which $25,000,000 is for rehabilitation and restoration of Federal lands: *Provided*, That emergency wildland fire suppression funds are also available for repayment to other appropriations accounts from which funds were transferred for wildfire suppression.

NATIONAL PARK SERVICE

HISTORIC PRESERVATION FUND

For an additional amount for the ''Historic Preservation Fund'', for expenses related to the consequences of Hurricane Katrina, $15,000,000, to remain available until expended: *Provided*, That the funds provided under this heading shall be provided to the Louisiana State Historic Preservation Officer, after consultation with the National Park Service, for grants for restoration and rehabilitation at Jackson Barracks: *Provided further*, That no more than 5 percent of funds provided under this heading for disaster relief grants may be used for administrative expenses.

ENVIRONMENTAL PROTECTION AGENCY

STATE AND TRIBAL ASSISTANCE GRANTS

For an additional amount for ''State and Tribal Assistance Grants'', for expenses related to the consequences of Hurricane Katrina, $5,000,000, to remain available until expended, for a grant to Cameron Parish, Louisiana, for construction of drinking water, wastewater and storm water infrastructure and for water quality protection: *Provided*, That for purposes of this grant, the grantee shall contribute not less than 45 percent of the cost of the project unless the grantee is approved for a waiver by the Agency.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for ''Wildland Fire Management'', $325,000,000, to remain available until expended, of which $250,000,000 shall be available for emergency wildfire suppression, and of which $75,000,000 shall be available for rehabilitation and restoration of Federal lands and may be transferred to other Forest Service accounts as necessary: *Provided*, That emergency wildfire suppression funds are also available for repayment to other appropriations accounts from which funds were transferred for wildfire suppression.

GENERAL PROVISION—THIS CHAPTER

SEC. 3601. Funds appropriated in section 132 of division F, Public Law 110–161, shall not be subject to 49 CFR Part 24 or Departmental policies issues pursuant to such regulations.

CHAPTER 7

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR MEDICARE AND MEDICAID SERVICES

For grants to States, consistent with section 6201(a)(4) of the Deficit Reduction Act of 2005, to make payments as defined by the Secretary in the methodology used for the Provider Stabilization grants to those Medicare participating general acute care hospitals, as defined in section 1886(d) of the Social Security Act, and currently operating in Jackson, Forrest, Hancock, and Harrison Counties of Mississippi and Orleans and Jefferson Parishes of Louisiana which continue to experience severe financial exigencies and other economic losses attributable to Hurricane Katrina or its subsequent flooding, and are in need of supplemental funding to relieve the financial pressures these hospitals face resulting from increased wage rates in hiring and retaining staff in order to stabilize access to patient care, $350,000,000, to be made available until September 30, 2010.

CHAPTER 8

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

(INCLUDING RESCISSION OF FUNDS)

For an additional amount for ''Military Construction, Army National Guard'', $11,503,000, to remain available until September 30, 2012: *Provided*, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds appropriated for ''Military Construction, Army National Guard'' under Public Law 109–234, $7,000,000 are hereby rescinded.

GENERAL PROVISION—THIS CHAPTER

SEC. 3801. Within the funds available in the Department of Defense Family Housing Improvement Fund as credited in accordance with 10 U.S.C. 2883(c), $10,500,000 shall be available for use at the Naval Construction Battalion Center, Gulfport, Mississippi, under the terms and conditions specified by 10 U.S.C. 2883, to remain available until expended.

CHAPTER 9

DEPARTMENT OF TRANSPORTATION

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

For an additional amount for the Emergency Relief Program as authorized under section 125 of title 23, United States Code, for eligible disasters occurring in fiscal years 2005 to the present, $451,126,383, to remain available until expended.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PERMANENT SUPPORTIVE HOUSING

For the provision of permanent supportive housing units as identified in the plan of the Louisiana Recovery Authority and approved by the Secretary of Housing and Urban Development, $73,000,000 to remain available until expended, of which not less than $20,000,000 shall be for project-based vouchers under section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)), not less than $50,000,000 shall be for grants under the Shelter Plus Care Program as authorized under subtitle F of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11403 et seq.), and not more than $3,000,000 shall be for related administrative expenses of the State of Louisiana or its designee or designees: *Provided*, That the Secretary of Housing and Urban Development shall, upon request, make funds available under this paragraph to the State of Louisiana or its designee or designees: *Provided further*, That notwithstanding any other provision of law, for the purpose of administering the amounts provided under this paragraph, the State of Louisiana or its designee or designees may act in all respects as a public housing agency as defined in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)): *Provided further*, That subparagraphs (B) and (D) of section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)) shall not apply with respect to vouchers made available under this paragraph.

PROJECT-BASED RENTAL ASSISTANCE

For an additional amount to areas impacted by Hurricane Katrina in the State of Mississippi for project-based vouchers under section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)), $20,000,000, to remain available until expended.

HOUSING TRANSITION ASSISTANCE

For an additional amount to the State of Louisiana for case management and housing transition services for families in areas impacted by Hurricanes Katrina and Rita of 2005, $3,000,000, to remain available until expended.

COMMUNITY DEVELOPMENT FUND

For an additional amount for the ''Community development fund'' for necessary expenses related to any uncompensated housing damage directly related to the consequences of Hurricane Katrina in the State of Alabama, $50,000,000, to remain available until expended: *Provided*, That prior to the obligation of funds the State shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address uncompensated housing damage: *Provided further*, That such funds may not be used for activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency: *Provided further*, That the State may use up to 5 percent of its allocation for administrative costs: *Provided further*, That in administering the funds under this paragraph, the Secretary of Housing and Urban Development may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by the State that such waiver is required to facilitate the use of such funds or guarantees, and a finding by the Secretary that such waiver would not be inconsistent with the overall purpose of the statute: *Provided further*, That the Secretary may waive the requirement that activities benefit persons of low and moderate income, except that at least 50 percent of the funds made available under this heading must benefit primarily persons of low and moderate income unless the Secretary otherwise makes a finding of compelling need: *Provided further*, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver.

(RESCISSION)

Of the unobligated balances remaining from funds appropriated under this heading by section 159 of Public Law 110–116 for the Louisiana Road Home program, $200,000,000 are rescinded.

TITLE IV—VETERANS EDUCATIONAL ASSISTANCE

SEC. 4001. SHORT TITLE.

This title may be cited as the ''Post-9/11 Veterans Educational Assistance Act of 2008''.

SEC. 4002. FINDINGS.

Congress makes the following findings:

(1) On September 11, 2001, terrorists attacked the United States, and the brave members of the Armed Forces of the United States were called to the defense of the Nation.

(2) Service on active duty in the Armed Forces has been especially arduous for the members of the Armed Forces since September 11, 2001.

(3) The United States has a proud history of offering educational assistance to millions of veterans, as demonstrated by the many ''G.I. Bills'' enacted since World War II. Educational assistance for veterans helps reduce the costs of war, assist veterans in readjusting to civilian life after wartime service, and boost the United States economy, and has a positive effect on recruitment for the Armed Forces.

(4) The current educational assistance program for veterans is outmoded and designed for peacetime service in the Armed Forces.

(5) The people of the United States greatly value military service and recognize the difficult challenges involved in readjusting to civilian life after wartime service in the Armed Forces.

(6) It is in the national interest for the United States to provide veterans who serve on active duty in the Armed Forces after September 11, 2001, with enhanced educational assistance benefits that are worthy of such service and are commensurate with the educational assistance benefits provided by a grateful Nation to veterans of World War II.

SEC. 4003. EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE ARMED FORCES WHO SERVE AFTER SEPTEMBER 11, 2001.

(a) EDUCATIONAL ASSISTANCE AUTHORIZED.—

(1) IN GENERAL.—Part III of title 38, United States Code, is amended by inserting after chapter 32 the following new chapter:

''CHAPTER 33—POST–9/11 EDUCATIONAL ASSISTANCE

''SUBCHAPTER I—DEFINITIONS

''SUBCHAPTER I—DEFINITIONS

''§ 3301. Definitions

''In this chapter:

''(1) The term 'active duty' has the meanings as follows (subject to the limitations specified in sections 3002(6) and 3311(b) of this title):

''(A) In the case of members of the regular components of the Armed Forces, the meaning given such term in section 101(21)(A) of this title.

''(B) In the case of members of the reserve components of the Armed Forces, service on active duty under a call or order to active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10.

''(2) The term 'entry level and skill training' means the following:

''(A) In the case of members of the Army, Basic Combat Training and Advanced Individual Training.

''(B) In the case of members of the Navy, Recruit Training (or Boot Camp) and Skill Training (or so-called 'A' School).

''(C) In the case of members of the Air Force, Basic Military Training and Technical Training.

''(D) In the case of members of the Marine Corps, Recruit Training and Marine Corps Training (or School of Infantry Training).

''(E) In the case of members of the Coast Guard, Basic Training.

''(3) The term 'program of education' has the meaning the meaning given such term in section 3002 of this title, except to the extent otherwise provided in section 3313 of this title.

''(4) The term 'Secretary of Defense' has the meaning given such term in section 3002 of this title.

''SUBCHAPTER II—EDUCATIONAL ASSISTANCE

''§ 3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement

''(a) ENTITLEMENT.—Subject to subsections (d) and (e), each individual described in subsection (b) is entitled to educational assistance under this chapter.

''(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual as follows:

''(1) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 36 months on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty; or

''(ii) is discharged or released from active duty as described in subsection (c).

''(2) An individual who—

''(A) commencing on or after September 11, 2001, serves at least 30 continuous days on active duty in the Armed Forces; and

''(B) after completion of service described in subparagraph (A), is discharged or released from active duty in the Armed Forces for a service-connected disability.

''(3) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 30 months, but less than 36 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty for an aggregate of less than 36 months; or

''(ii) before completion of service on active duty of an aggregate of 36 months, is discharged or released from active duty as described in subsection (c).

''(4) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 24 months, but less than 30 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty for an aggregate of less than 30 months; or

''(ii) before completion of service on active duty of an aggregate of 30 months, is discharged or released from active duty as described in subsection (c).

''(5) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 18 months, but less than 24 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty for an aggregate of less than 24 months; or

''(ii) before completion of service on active duty of an aggregate of 24 months, is discharged or released from active duty as described in subsection (c).

''(6) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 12 months, but less than 18 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty for an aggregate of less than 18 months; or

''(ii) before completion of service on active duty of an aggregate of 18 months, is discharged or released from active duty as described in subsection (c).

''(7) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 6 months, but less than 12 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty for an aggregate of less than 12 months; or

''(ii) before completion of service on active duty of an aggregate of 12 months, is discharged or released from active duty as described in subsection (c).

''(8) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 90 days, but less than 6 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty for an aggregate of less than 6 months; or

''(ii) before completion of service on active duty of an aggregate of 6 months, is discharged or released from active duty as described in subsection (c).

''(c) COVERED DISCHARGES AND RELEASES.—A discharge or release from active duty of an individual described in this subsection is a discharge or release as follows:

''(1) A discharge from active duty in the Armed Forces with an honorable discharge.

''(2) A release after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service and placement on the retired list, transfer to the Fleet Reserve or Fleet Marine Corps Reserve, or placement on the temporary disability retired list.

''(3) A release from active duty in the Armed Forces for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

''(4) A discharge or release from active duty in the Armed Forces for—

''(A) a medical condition which preexisted the service of the individual as described in the applicable paragraph of subsection (b) and which the Secretary determines is not service-connected;

''(B) hardship; or

''(C) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense.

''(d) PROHIBITION ON TREATMENT OF CERTAIN SERVICE AS PERIOD OF ACTIVE DUTY.—The following periods of service shall not be considered a part of the period of active duty on which an individual's entitlement to educational assistance under this chapter is based:

''(1) A period of service on active duty of an officer pursuant to an agreement under section 2107(b) of title 10.

''(2) A period of service on active duty of an officer pursuant to an agreement under section 4348, 6959, or 9348 of title 10.

''(3) A period of service that is terminated because of a defective enlistment and induction based on—

''(A) the individual's being a minor for purposes of service in the Armed Forces;

''(B) an erroneous enlistment or induction; or

''(C) a defective enlistment agreement.

''(e) TREATMENT OF INDIVIDUALS ENTITLED UNDER MULTIPLE PROVISIONS.—In the event an individual entitled to educational assistance under this chapter is entitled by reason of both paragraphs (4) and (5) of subsection (b), the individual shall be treated as being entitled to educational assistance under this chapter by reason of paragraph (5) of such subsection.

''§ 3312. Educational assistance: duration

''(a) IN GENERAL.—Subject to section 3695 of this title and except as provided in subsections (b) and (c), an individual entitled to educational assistance under this chapter is entitled to a number of months of educational assistance under section 3313 of this title equal to 36 months.

''(b) CONTINUING RECEIPT.—The receipt of educational assistance under section 3313 of this title by an individual entitled to educational assistance under this chapter is subject to the provisions of section 3321(b)(2) of this title.

''(c) DISCONTINUATION OF EDUCATION FOR ACTIVE DUTY.—(1) Any payment of educational assistance described in paragraph (2) shall not—

''(A) be charged against any entitlement to educational assistance of the individual concerned under this chapter; or

''(B) be counted against the aggregate period for which section 3695 of this title limits the individual's receipt of educational assistance under this chapter.

''(2) Subject to paragraph (3), the payment of educational assistance described in this paragraph is the payment of such assistance to an individual for pursuit of a course or courses under this chapter if the Secretary finds that the individual—

''(A)(i) in the case of an individual not serving on active duty, had to discontinue such course pursuit as a result of being called or ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10; or

''(ii) in the case of an individual serving on active duty, had to discontinue such course pursuit as a result of being ordered to a new duty location or assignment or to perform an increased amount of work; and

''(B) failed to receive credit or lost training time toward completion of the individual's approved education, professional, or vocational objective as a result of having to discontinue, as described in subparagraph (A), the individual's course pursuit.

''(3) The period for which, by reason of this subsection, educational assistance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall not exceed the portion of the period of enrollment in the course or courses from which the individual failed to receive credit or with respect to which the individual lost training time, as determined under paragraph (2)(B).

''§ 3313. Educational assistance: amount; payment

''(a) PAYMENT.—The Secretary shall pay to each individual entitled to educational assistance under this chapter who is pursuing an approved program of education (other than a program covered by subsections (e) and (f)) the amounts specified in subsection (c) to meet the expenses of such individual's subsistence, tuition, fees, and other educational costs for pursuit of such program of education.

''(b) APPROVED PROGRAMS OF EDUCATION.—A program of education is an approved program of education for purposes of this chapter if the program of education is offered by an institution of higher learning (as that term is defined in section 3452(f) of this title) and is approved for purposes of chapter 30 of this title (including approval by the State approving agency concerned).

''(c) AMOUNT OF EDUCATIONAL ASSISTANCE.—The amounts payable under this subsection for pursuit of an approved program of education are amounts as follows:

''(1) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(1) or 3311(b)(2) of this title, amounts as follows:

''(A) An amount equal to the established charges for the program of education, except that the amount payable under this subparagraph may not exceed the maximum amount of established charges regularly charged in-State students for full-time pursuit of approved programs of education for undergraduates by the public institution of higher education offering approved programs of education for undergraduates in the State in which the individual is enrolled that has the highest rate of regularly-charged established charges for such programs of education among all public institutions of higher education in such State offering such programs of education.

''(B) A monthly stipend in an amount as follows:

''(i) For each month the individual pursues the program of education, other than a program of education offered through distance learning, a monthly housing stipend amount equal to the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E–5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution of higher education at which the individual is enrolled.

''(ii) For the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational costs with respect to such quarter, semester, or term in the amount equal to—

''(I) $1,000, multiplied by

''(II) the fraction which is the portion of a complete academic year under the program of education that such quarter, semester, or term constitutes.

''(2) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(3) of this title, amounts equal to 90 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

''(3) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(4) of this title, amounts equal to 80 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

''(4) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(5) of this title, amounts equal to 70 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

''(5) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(6) of this title, amounts equal to 60 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

''(6) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(7) of this title, amounts equal to 50 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

''(7) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(8) of this title, amounts equal to 40 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

''(d) FREQUENCY OF PAYMENT.—(1) Payment of the amounts payable under subsection (c)(1)(A), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

''(2) Payment of the amount payable under subsection (c)(1)(B), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made on a monthly basis.

''(3) The Secretary shall prescribe in regulations methods for determining the number of months (including fractions thereof) of entitlement of an individual to educational assistance this chapter that are chargeable under this chapter for an advance payment of amounts under paragraphs (1) and (2) for pursuit of a program of education on a quarter, semester, term, or other basis.

''(e) PROGRAMS OF EDUCATION PURSUED ON ACTIVE DUTY.—(1) Educational assistance is payable under this chapter for pursuit of an approved program of education while on active duty.

''(2) The amount of educational assistance payable under this chapter to an individual pursuing a program of education while on active duty is the lesser of—

''(A) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

''(B) the amount of the charges of the educational institution as elected by the individual in the manner specified in section 3014(b)(1) of this title.

''(3) Payment of the amount payable under paragraph (2) for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

''(4) For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at the rate of one month for each such month.

''(f) PROGRAMS OF EDUCATION PURSUED ON HALF-TIME BASIS OR LESS.—(1) Educational assistance is payable under this chapter for pursuit of an approved program of education on half-time basis or less.

''(2) The educational assistance payable under this chapter to an individual pursuing a program of education on half-time basis or less is the amounts as follows:

''(A) The amount equal to the lesser of—

''(i) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

''(ii) the maximum amount that would be payable to the individual for the program of education under paragraph (1)(A) of subsection (c), or under the provisions of paragraphs (2) through (7) of subsection (c) applicable to the individual, for the program of education if the individual were entitled to amounts for the program of education under subsection (c) rather than this subsection.

''(B) A stipend in an amount equal to the amount of the appropriately reduced amount of the lump sum amount for books, supplies, equipment, and other educational costs otherwise payable to the individual under subsection (c).

''(3) Payment of the amounts payable to an individual under paragraph (2) for pursuit of a program of education on half-time basis or less shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

''(4) For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at a percentage of a month equal to—

''(A) the number of course hours borne by the individual in pursuit of the program of education involved, divided by

''(B) the number of course hours for full-time pursuit of such program of education.

''(g) PAYMENT OF ESTABLISHED CHARGES TO EDUCATIONAL INSTITUTIONS.—Amounts payable under subsections (c)(1)(A) (and of similar amounts payable under paragraphs (2) through (7) of subsection (c)), (e)(2) and (f)(2)(A) shall be paid directly to the educational institution concerned.

''(h) ESTABLISHED CHARGES DEFINED.—(1) In this section, the term 'established charges', in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay.

''(2) Established charges shall be determined for purposes of this subsection on the following basis:

''(A) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

''(B) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

''§ 3314. Tutorial assistance

''(a) IN GENERAL.—Subject to subsection (b), an individual entitled to educational assistance under this chapter shall also be entitled to benefits provided an eligible veteran under section 3492 of this title.

''(b) CONDITIONS.—(1) The provision of benefits under subsection (a) shall be subject to the conditions applicable to an eligible veteran under section 3492 of this title.

''(2) In addition to the conditions specified in paragraph (1), benefits may not be provided to an individual under subsection (a) unless the professor or other individual teaching, leading, or giving the course for which such benefits are provided certifies that—

''(A) such benefits are essential to correct a deficiency of the individual in such course; and

''(B) such course is required as a part of, or is prerequisite or indispensable to the satisfactory pursuit of, an approved program of education.

''(c) AMOUNT.—(1) The amount of benefits described in subsection (a) that are payable under this section may not exceed $100 per month, for a maximum of 12 months, or until a maximum of $1,200 is utilized.

''(2) The amount provided an individual under this subsection is in addition to the amounts of educational assistance paid the individual under section 3313 of this title.

''(d) NO CHARGE AGAINST ENTITLEMENT.—Any benefits provided an individual under subsection (a) are in addition to any other educational assistance benefits provided the individual under this chapter.

''§ 3315. Licensure and certification tests

''(a) IN GENERAL.—An individual entitled to educational assistance under this chapter shall also be entitled to payment for one licensing or certification test described in section 3452(b) of this title.

''(b) LIMITATION ON AMOUNT.—The amount payable under subsection (a) for a licensing or certification test may not exceed the lesser of—

''(1) $2,000; or

''(2) the fee charged for the test.

''(c) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under subsection (a) is in addition to any other educational assistance benefits provided the individual under this chapter.

''§ 3316. Supplemental educational assistance: members with critical skills or specialty; members serving additional service

''(a) INCREASED ASSISTANCE FOR MEMBERS WITH CRITICAL SKILLS OR SPECIALTY.—(1) In the case of an individual who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit or, in the case of critical units, retain personnel, the Secretary concerned may increase the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7) of such section (as applicable).

''(2) The amount of the increase in educational assistance authorized by paragraph (1) may not exceed the amount equal to the monthly amount of increased basic educational assistance providable under section 3015(d)(1) of this title at the time of the increase under paragraph (1).

''(b) SUPPLEMENTAL ASSISTANCE FOR ADDITIONAL SERVICE.—(1) The Secretary concerned may provide for the payment to an individual entitled to educational assistance under this chapter of supplemental educational assistance for additional service authorized by subchapter III of chapter 30 of this title. The amount so payable shall be payable as an increase in the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7) of such section (as applicable).

''(2) Eligibility for supplement educational assistance under this subsection shall be determined in accordance with the provisions of subchapter III of chapter 30 of this title, except that any reference in such provisions to eligibility for basic educational assistance under a provision of subchapter II of chapter 30 of this title shall be treated as a reference to eligibility for educational assistance under the appropriate provision of this chapter.

''(3) The amount of supplemental educational assistance payable under this subsection shall be the amount equal to the monthly amount of supplemental educational payable under section 3022 of this title.

''(c) REGULATIONS.—The Secretaries concerned shall administer this section in accordance with such regulations as the Secretary of Defense shall prescribe.

''§ 3317. Public-private contributions for additional educational assistance

''(a) ESTABLISHMENT OF PROGRAM.—In instances where the educational assistance provided pursuant to section 3313(c)(1)(A) does not cover the full cost of established charges (as specified in section 3313 of this title), the Secretary shall carry out a program under which colleges and universities can, voluntarily, enter into an agreement with the Secretary to cover a portion of those established charges not otherwise covered under section 3313(c)(1)(A), which contributions shall be matched by equivalent contributions toward such costs by the Secretary. The program shall only apply to covered individuals described in paragraphs (1) and (2) of section 3311(b).

''(b) DESIGNATION OF PROGRAM.—The program under this section shall be known as the 'Yellow Ribbon G.I. Education Enhancement Program'.

''(c) AGREEMENTS.—The Secretary shall enter into an agreement with each college or university seeking to participate in the program under this section. Each agreement shall specify the following:

''(1) The manner (whether by direct grant, scholarship, or otherwise) of the contributions to be made by the college or university concerned.

''(2) The maximum amount of the contribution to be made by the college or university concerned with respect to any particular individual in any given academic year.

''(3) The maximum number of individuals for whom the college or university concerned will make contributions in any given academic year.

''(4) Such other matters as the Secretary and the college or university concerned jointly consider appropriate.

''(d) MATCHING CONTRIBUTIONS.—(1) In instances where the educational assistance provided an individual under section 3313(c)(1)(A) of this title does not cover the full cost of tuition and mandatory fees at a college or university, the Secretary shall provide up to 50 percent of the remaining costs for tuition and mandatory fees if the college or university voluntarily enters into an agreement with the Secretary to match an equal percentage of any of the remaining costs for such tuition and fees.

''(2) Amounts available to the Secretary under section 3324(b) of this title for payment of the costs of this chapter shall be available to the Secretary for purposes of paragraph (1).

''(e) OUTREACH.—The Secretary shall make available on the Internet website of the Department available to the public a current list of the colleges and universities participating in the program under this section. The list shall specify, for each college or university so listed, appropriate information on the agreement between the Secretary and such college or university under subsection (c).

''§ 3318. Additional assistance: relocation or travel assistance for individual relocating or traveling significant distance for pursuit of a program of education

''(a) ADDITIONAL ASSISTANCE.—Each individual described in subsection (b) shall be paid additional assistance under this section in the amount of $500.

''(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual entitled to educational assistance under this chapter—

''(1) who resides in a highly rural area (as determined by the Bureau of the Census); and

''(2) who—

''(A) physically relocates a distance of at least 500 miles in order to pursue a program of education for which the individual utilizes educational assistance under this chapter; or

''(B) travels by air to physically attend an institution of higher education for pursuit of such a program of education because the individual cannot travel to such institution by automobile or other established form of transportation due to an absence of road or other infrastructure.

''(c) PROOF OF RESIDENCE.—For purposes of subsection (b)(1), an individual may demonstrate the individual's place of residence utilizing any of the following:

''(1) DD Form 214, Certification of Release or Discharge from Active Duty.

''(2) The most recent Federal income tax return.

''(3) Such other evidence as the Secretary shall prescribe for purposes of this section.

''(d) SINGLE PAYMENT OF ASSISTANCE.—An individual is entitled to only one payment of additional assistance under this section.

''(e) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under this section is in addition to any other educational assistance benefits provided the individual under this chapter.''.

''SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

''§ 3321. Time limitation for use of and eligibility for entitlement

''(a) IN GENERAL.—Except as provided in this section, the period during which an individual entitled to educational assistance under this chapter may use such individual's entitlement expires at the end of the 15-year period beginning on the date of such individual's last discharge or release from active duty.

''(b) EXCEPTIONS.—(1) Subsections (b), (c), and (d) of section 3031 of this title shall apply with respect to the running of the 15-year period described in subsection (a) of this section in the same manner as such subsections apply under section 3031 of this title with respect to the running of the 10-year period described in section 3031(a) of this title.

''(2) Section 3031(f) of this title shall apply with respect to the termination of an individual's entitlement to educational assistance under this chapter in the same manner as such section applies to the termination of an individual's entitlement to educational assistance under chapter 30 of this title, except that, in the administration of such section for purposes of this chapter, the reference to section 3013 of this title shall be deemed to be a reference to 3312 of this title.

''(3) For purposes of subsection (a), an individual's last discharge or release from active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service, unless the individual is discharged or released as described in section 3311(b)(2) of this title.

''§ 3322. Bar to duplication of educational assistance benefits

''(a) IN GENERAL.—An individual entitled to educational assistance under this chapter who is also eligible for educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980 (Public Law 96–449; 5 U.S.C. 5561 note) may not receive assistance under two or more such programs concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which chapter or provisions to receive educational assistance.

''(b) INAPPLICABILITY OF SERVICE TREATED UNDER EDUCATIONAL LOAN REPAYMENT PROGRAMS.—A period of service counted for purposes of repayment of an education loan under chapter 109 of title 10 may not be counted as a period of service for entitlement to educational assistance under this chapter.

''(c) SERVICE IN SELECTED RESERVE.—An individual who serves in the Selected Reserve may receive credit for such service under

only one of this chapter, chapter 30 of this title, and chapters 1606 and 1607 of title 10, and shall elect (in such form and manner as the Secretary may prescribe) under which chapter such service is to be credited.

''(d) ADDITIONAL COORDINATION MATTERS.—In the case of an individual entitled to educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980, or making contributions toward entitlement to educational assistance under chapter 30 of this title, as of August 1, 2009, coordination of entitlement to educational assistance under this chapter, on the one hand, and such chapters or provisions, on the other, shall be governed by the provisions of section ___03(c) of the Post-9/11 Veterans Educational Assistance Act of 2008.

''§ 3323. Administration

''(a) IN GENERAL.—(1) Except as otherwise provided in this chapter, the provisions specified in section 3034(a)(1) of this title shall apply to the provision of educational assistance under this chapter.

''(2) In applying the provisions referred to in paragraph (1) to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such provisions to the term 'eligible veteran' shall be deemed to refer to an individual entitled to educational assistance under this chapter.

''(3) In applying section 3474 of this title to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such section 3474 to the term 'educational assistance allowance' shall be deemed to refer to educational assistance payable under section 3313 of this title.

''(4) In applying section 3482(g) of this title to an individual entitled to educational assistance under this chapter for purposes of this section—

''(A) the first reference to the term 'educational assistance allowance' in such section 3482(g) shall be deemed to refer to educational assistance payable under section 3313 of this title; and

''(B) the first sentence of paragraph (1) of such section 3482(g) shall be applied as if such sentence ended with 'equipment'.

''(b) INFORMATION ON BENEFITS.—(1) The Secretary of Veterans Affairs shall provide the information described in paragraph (2) to each member of the Armed Forces at such times as the Secretary of Veterans Affairs and the Secretary of Defense shall jointly prescribe in regulations.

''(2) The information described in this paragraph is information on benefits, limitations, procedures, eligibility requirements (including time-in-service requirements), and other important aspects of educational assistance under this chapter, including application forms for such assistance under section 5102 of this title.

''(3) The Secretary of Veterans Affairs shall furnish the information and forms described in paragraph (2), and other educational materials on educational assistance under this chapter, to educational institutions, training establishments, military education personnel, and such other persons and entities as the Secretary considers appropriate.

''(c) REGULATIONS.—(1) The Secretary shall prescribe regulations for the administration of this chapter.

''(2) Any regulations prescribed by the Secretary of Defense for purposes of this chapter shall apply uniformly across the Armed Forces.

''§ 3324. Allocation of administration and costs

''(a) ADMINISTRATION.—Except as otherwise provided in this chapter, the Secretary shall administer the provision of educational assistance under this chapter.

''(b) COSTS.—Payments for entitlement to educational assistance earned under this chapter shall be made from funds appropriated to, or otherwise made available to, the Department of Veterans Affairs for the payment of readjustment benefits.''.

(2) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of title 38, United States Code, and at the beginning of part III of such title, are each amended by inserting after the item relating to chapter 32 the following new item:

''33. Post-9/11 Educational Assistance 3301''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS RELATING TO DUPLICATION OF BENEFITS.—

(A) Section 3033 of title 38, United States Code, is amended—

(i) in subsection (a)(1), by inserting ''33,'' after ''32,''; and

(ii) in subsection (c), by striking ''both the program established by this chapter and the program established by chapter 106 of title 10'' and inserting ''two or more of the programs established by this chapter, chapter 33 of this title, and chapters 1606 and 1607 of title 10''.

(B) Paragraph (4) of section 3695(a) of such title is amended to read as follows:

''(4) Chapters 30, 32, 33, 34, 35, and 36 of this title.''.

(C) Section 16163(e) of title 10, United States Code, is amended by inserting ''33,'' after ''32,''.

(2) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Title 38, United States Code, is further amended by inserting ''33,'' after ''32,'' each place it appears in the following provisions:

(i) In subsections (b) and (e)(1) of section 3485.

(ii) In section 3688(b).

(iii) In subsections (a)(1), (c)(1), (c)(1)(G), (d), and (e)(2) of section 3689.

(iv) In section 3690(b)(3)(A).

(v) In subsections (a) and (b) of section 3692.

(vi) In section 3697(a).

(B) Section 3697A(b)(1) of such title is amended by striking ''or 32'' and inserting ''32, or 33''.

(c) APPLICABILITY TO INDIVIDUALS UNDER MONTGOMERY GI BILL PROGRAM.—

(1) INDIVIDUALS ELIGIBLE TO ELECT PARTICIPATION IN POST-9/11 EDUCATIONAL ASSISTANCE.—An individual may elect to receive educational assistance under chapter 33 of title 38, United States Code (as added by subsection (a)), if such individual—

(A) as of August 1, 2009—

(i) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, and has used, but retains unused, entitlement under that chapter;

(ii) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, and has used, but retains unused, entitlement under the applicable chapter;

(iii) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, but has not used any entitlement under that chapter;

(iv) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, but has not used any entitlement under such chapter;

(v) is a member of the Armed Forces who is eligible for receipt of basic educational assistance under chapter 30 of title 38, United States Code, and is making contributions toward such assistance under section 3011(b) or 3012(c) of such title; or

(vi) is a member of the Armed Forces who is not entitled to basic educational assistance under chapter 30 of title 38, United States Code, by reason of an election under section 3011(c)(1) or 3012(d)(1) of such title; and

(B) as of the date of the individual's election under this paragraph, meets the requirements for entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added).

(2) CESSATION OF CONTRIBUTIONS TOWARD GI BILL.—Effective as of the first month beginning on or after the date of an election under paragraph (1) of an individual described by subparagraph (A)(v) of that paragraph, the obligation of the individual to make contributions under section 3011(b) or 3012(c) of title 38, United States Code, as applicable, shall cease, and the requirements of such section shall be deemed to be no longer applicable to the individual.

(3) REVOCATION OF REMAINING TRANSFERRED ENTITLEMENT.—

(A) ELECTION TO REVOKE.—If, on the date an individual described in subparagraph (A)(i) or (A)(iii) of paragraph (1) makes an election under that paragraph, a transfer of the entitlement of the individual to basic educational assistance under section 3020 of title 38, United States Code, is in effect and a number of months of the entitlement so transferred remain unutilized, the individual may elect to revoke all or a portion of the entitlement so transferred that remains unutilized.

(B) AVAILABILITY OF REVOKED ENTITLEMENT.—Any entitlement revoked by an individual under this paragraph shall no longer be available to the dependent to whom transferred, but shall be available to the individual instead for educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of this subsection.

(C) AVAILABILITY OF UNREVOKED ENTITLEMENT.—Any entitlement described in subparagraph (A) that is not revoked by an individual in accordance with that subparagraph shall remain available to the dependent or dependents concerned in accordance with the current transfer of such entitlement under section 3020 of title 38, United States Code.

(4) POST-9/11 EDUCATIONAL ASSISTANCE.—

(A) IN GENERAL.—Subject to subparagraph (B) and except as provided in paragraph (5), an individual making an election under paragraph (1) shall be entitled to educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of such chapter, instead of basic educational assistance under chapter 30 of title 38, United States Code, or educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, as applicable.

(B) LIMITATION ON ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual making an election under paragraph (1) who is described by subparagraph (A)(i) of that paragraph, the number of months of entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), shall be the number of months equal to—

(i) the number of months of unused entitlement of the individual under chapter 30 of title 38, United States Code, as of the date of the election, plus

(ii) the number of months, if any, of entitlement revoked by the individual under paragraph (3)(A).

(5) CONTINUING ENTITLEMENT TO EDUCATIONAL ASSISTANCE NOT AVAILABLE UNDER 9/11 ASSISTANCE PROGRAM.—

(A) IN GENERAL.—In the event educational assistance to which an individual making an election under paragraph (1) would be entitled under chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable, is

not authorized to be available to the individual under the provisions of chapter 33 of title 38, United States Code (as so added), the individual shall remain entitled to such educational assistance in accordance with the provisions of the applicable chapter.

(B) CHARGE FOR USE OF ENTITLEMENT.—The utilization by an individual of entitlement under subparagraph (A) shall be chargeable against the entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), at the rate of one month of entitlement under such chapter 33 for each month of entitlement utilized by the individual under subparagraph (A) (as determined as if such entitlement were utilized under the provisions of chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable).

(6) ADDITIONAL POST-9/11 ASSISTANCE FOR MEMBERS HAVING MADE CONTRIBUTIONS TOWARD GI BILL.—

(A) ADDITIONAL ASSISTANCE.—In the case of an individual making an election under paragraph (1) who is described by clause (i), (iii), or (v) of subparagraph (A) of that paragraph, the amount of educational assistance payable to the individual under chapter 33 of title 38, United States Code (as so added), as a monthly stipend payable under paragraph (1)(B) of section 3313(c) of such title (as so added), or under paragraphs (2) through (7) of that section (as applicable), shall be the amount otherwise payable as a monthly stipend under the applicable paragraph increased by the amount equal to—

(i) the total amount of contributions toward basic educational assistance made by the individual under section 3011(b) or 3012(c) of title 38, United States Code, as of the date of the election, multiplied by

(ii) the fraction—

(I) the numerator of which is—

(aa) the number of months of entitlement to basic educational assistance under chapter 30 of title 38, United States Code, remaining to the individual at the time of the election; plus

(bb) the number of months, if any, of entitlement under such chapter 30 revoked by the individual under paragraph (3)(A); and

(II) the denominator of which is 36 months.

(B) MONTHS OF REMAINING ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual covered by subparagraph (A) who is described by paragraph (1)(A)(v), the number of months of entitlement to basic educational assistance remaining to the individual for purposes of subparagraph (A)(ii)(I)(aa) shall be 36 months.

(C) TIMING OF PAYMENT.—The amount payable with respect to an individual under subparagraph (A) shall be paid to the individual together with the last payment of the monthly stipend payable to the individual under paragraph (1)(B) of section 3313(c) of title 38, United States Code (as so added), or under paragraphs (2) through (7) of that section (as applicable), before the exhaustion of the individual's entitlement to educational assistance under chapter 33 of such title (as so added).

(7) CONTINUING ENTITLEMENT TO ADDITIONAL ASSISTANCE FOR CRITICAL SKILLS OR SPECIALITY AND ADDITIONAL SERVICE.—An individual making an election under paragraph (1)(A) who, at the time of the election, is entitled to increased educational assistance under section 3015(d) of title 38, United States Code, or section 16131(i) of title 10, United States Code, or supplemental educational assistance under subchapter III of chapter 30 of title 38, United States Code, shall remain entitled to such increased educational assistance or supplemental educational assistance in the utilization of entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added), in an amount equal to the quarter, semester, or term, as applicable, equivalent of the monthly amount of such increased educational assistance or supplemental educational assistance payable with respect to the individual at the time of the election.

(8) IRREVOCABILITY OF ELECTIONS.—An election under paragraph (1) or (3)(A) is irrevocable.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on August 1, 2009.

SEC. 4004. INCREASE IN AMOUNTS OF BASIC EDUCATIONAL ASSISTANCE UNDER THE MONTGOMERY GI BILL.

(a) EDUCATIONAL ASSISTANCE BASED ON THREE-YEAR PERIOD OF OBLIGATED SERVICE.—Subsection (a)(1) of section 3015 of title 38, United States Code, is amended—

(1) by striking subparagraphs (A) through (C) and inserting the following new subparagraph:

''(A) for months occurring during the period beginning on August 1, 2008, and ending on the last day of fiscal year 2009, $1,321; and''; and

(2) by redesignating subparagraph (D) as subparagraph (B).

(b) EDUCATIONAL ASSISTANCE BASED ON TWO-YEAR PERIOD OF OBLIGATED SERVICE.—Subsection (b)(1) of such section is amended—

(1) by striking subparagraphs (A) through (C) and inserting the following new subparagraph:

''(A) for months occurring during the period beginning on August 1, 2008, and ending on the last day of fiscal year 2009, $1,073; and''; and

(2) by redesignating subparagraph (D) as subparagraph (B).

(c) MODIFICATION OF MECHANISM FOR COST-OF-LIVING ADJUSTMENTS.—Subsection (h)(1) of such section is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

''(A) the average cost of undergraduate tuition in the United States, as determined by the National Center for Education Statistics, for the last academic year preceding the beginning of the fiscal year for which the increase is made, exceeds

''(B) the average cost of undergraduate tuition in the United States, as so determined, for the academic year preceding the academic year described in subparagraph (A).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on August 1, 2008.

(2) NO COST-OF-LIVING ADJUSTMENT FOR FISCAL YEAR 2009.—The adjustment required by subsection (h) of section 3015 of title 38, United States Code (as amended by this section), in rates of basic educational assistance payable under subsections (a) and (b) of such section (as so amended) shall not be made for fiscal year 2009.

SEC. 4005. MODIFICATION OF AMOUNT AVAILABLE FOR REIMBURSEMENT OF STATE AND LOCAL AGENCIES ADMINISTERING VETERANS EDUCATION BENEFITS.

Section 3674(a)(4) of title 38, United States Code, is amended by striking ''may not exceed'' and all that follows through the end and inserting ''shall be $19,000,000.''.

TITLE V—EMERGENCY UNEMPLOYMENT COMPENSATION

FEDERAL-STATE AGREEMENTS

SEC. 5001. (a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the ''Secretary''). Any State which is a party to an agreement under this title may, upon providing 30 days written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of emergency unemployment compensation to individuals who—

(1) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before May 1, 2007);

(2) have no rights to regular compensation or extended compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (except as provided under subsection (e)); and

(3) are not receiving compensation with respect to such week under the unemployment compensation law of Canada.

(c) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1), an individual shall be deemed to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period; or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT, ETC.—For purposes of any agreement under this title—

(1) the amount of emergency unemployment compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to such individual during such individual's benefit year under the State law for a week of total unemployment;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for emergency unemployment compensation and the payment thereof, except where otherwise inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of emergency unemployment compensation payable to any individual for whom an emergency unemployment compensation account is established under section 5002 shall not exceed the amount established in such account for such individual.

(e) ELECTION BY STATES.—Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State that is in an extended benefit period may provide for the payment of emergency unemployment compensation prior to extended compensation to individuals who otherwise meet the requirements of this section.

EMERGENCY UNEMPLOYMENT COMPENSATION ACCOUNT

SEC. 5002. (a) IN GENERAL.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for emergency unemployment compensation, an emergency unemployment compensation account with respect to such individual's benefit year.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the lesser of—

(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under such law, or

(B) 13 times the individual's average weekly benefit amount for the benefit year.

(2) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

(c) SPECIAL RULE.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, if, at the time that the individual's account is exhausted or at any time thereafter, such individual's State is in an extended benefit period (as determined under paragraph (2)), then, such account shall be augmented by an amount equal to the amount originally established in such account (as determined under subsection (b)(1)).

(2) EXTENDED BENEFIT PERIOD.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if—

(A) such a period is then in effect for such State under the Federal-State Extended Unemployment Compensation Act of 1970;

(B) such a period would then be in effect for such State under such Act if section 203(d) of such Act—

(i) were applied by substituting ''4'' for ''5'' each place it appears; and

(ii) did not include the requirement under paragraph (1)(A); or

(C) such a period would then be in effect for such State under such Act if—

(i) section 203(f) of such Act were applied to such State (regardless of whether the State by law had provided for such application); and

(ii) such section 203(f)—

(I) were applied by substituting ''6.0'' for ''6.5'' in paragraph (1)(A)(i); and

(II) did not include the requirement under paragraph (1)(A)(ii).

PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF EMERGENCY UNEMPLOYMENT COMPENSATION

SEC. 5003. (a) GENERAL RULE.—There shall be paid to each State that has entered into an agreement under this title an amount equal to 100 percent of the emergency unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) TREATMENT OF REIMBURSABLE COMPENSATION.—No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

(c) DETERMINATION OF AMOUNT.—Sums payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

FINANCING PROVISIONS

SEC. 5004. (a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a)) of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a)) shall be used for the making of payments to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the Government Accountability Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as so established) to the account of such State in the Unemployment Trust Fund (as so established).

(c) ASSISTANCE TO STATES.—There are appropriated out of the employment security administration account (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a)) of the Unemployment Trust Fund, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act (42 U.S.C. 501 et seq.)) in meeting the costs of administration of agreements under this title.

(d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

FRAUD AND OVERPAYMENTS

SEC. 5005. (a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of emergency unemployment compensation under this title to which such individual was not entitled, such individual—

(1) shall be ineligible for further emergency unemployment compensation under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of individuals who have received amounts of emergency unemployment compensation under this title to which they were not entitled, the State shall require such individuals to repay the amounts of such emergency unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such emergency unemployment compensation was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any emergency unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any State or Federal unemployment compensation law administered by the State agency or under any other State or Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the emergency unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

DEFINITIONS

SEC. 5006. In this title, the terms ''compensation'', ''regular compensation'', ''extended compensation'', ''benefit year'', ''base period'', ''State'', ''State agency'', ''State law'', and ''week'' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

APPLICABILITY

SEC. 5007. (a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending on or before March 31, 2009.

(b) TRANSITION FOR AMOUNT REMAINING IN ACCOUNT.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), in the case of an individual who has amounts remaining in an account established under section 5002 as of the last day of the last week (as determined in accordance with the applicable State law) ending on or before March 31, 2009, emergency unemployment compensation shall continue to be payable to such individual from such amounts for any week beginning after such last day for which the individual meets the eligibility requirements of this title.

(2) LIMIT ON AUGMENTATION.—If the account of an individual is exhausted after the last day of such last week (as so determined), then section 5002(c) shall not apply and such account shall not be augmented under such section, regardless of whether such individual's State is in an extended benefit period (as determined under paragraph (2) of such section).

(3) LIMIT ON COMPENSATION.—No compensation shall be payable by reason of paragraph (1) for any week beginning after June 30, 2009.

TITLE VI—OTHER HEALTH MATTERS

SEC. 6001. (a) MORATORIA ON CERTAIN MEDICAID REGULATIONS.—

(1) EXTENSION OF CERTAIN MORATORIA IN PUBLIC LAW 110–28.—Section 7002(a)(1) of the

U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28) is amended—

(A) by striking ''prior to the date that is 1 year after the date of enactment of this Act'' and inserting ''prior to April 1, 2009'';

(B) in subparagraph (A), by inserting after ''Federal Regulations)'' the following: ''or in the final regulation, relating to such parts, published on May 29, 2007 (72 Federal Register 29748)''; and

(C) in subparagraph (C), by inserting before the period at the end the following: '', including the proposed regulation published on May 23, 2007 (72 Federal Register 28930)''.

(2) EXTENSION OF CERTAIN MORATORIA IN PUBLIC LAW 110–173.—Section 206 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is amended—

(A) by striking ''June 30, 2008'' and inserting ''April 1, 2009'';

(B) by inserting '', including the proposed regulation published on August 13, 2007 (72 Federal Register 45201),'' after ''rehabilitation services''; and

(C) by inserting '', including the final regulation published on December 28, 2007 (72 Federal Register 73635),'' after ''school-based transportation''.

(3) MORATORIUM ON INTERIM FINAL MEDICAID REGULATION RELATING TO OPTIONAL CASE MANAGEMENT AND TARGETED CASE MANAGEMENT SERVICES.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, finalize, implement, enforce, or otherwise take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to impose any restrictions relating to the interim final regulation relating to optional State plan case management services and targeted case management services under the Medicaid program published on December 4, 2007 (72 Federal Register 68077) in its entirety.

(4) ADDITIONAL MORATORIA.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to impose any restrictions relating to a provision described in subparagraph (B) or (C) if such restrictions are more restrictive in any aspect than those applied to the respective provision as of the date specified in subparagraph (D) for such provision.

(B) PROPOSED REGULATION RELATING TO REDEFINITION OF MEDICAID OUTPATIENT HOSPITAL SERVICES.—The provision described in this subparagraph is the proposed regulation relating to clarification of outpatient clinic and hospital facility services definition and upper payment limit under the Medicaid program published on September 28, 2007 (72 Federal Register 55158) in its entirety.

(C) PORTION OF PROPOSED REGULATION RELATING TO MEDICAID ALLOWABLE PROVIDER TAXES.—

(i) IN GENERAL.—Subject to clause (ii), the provision described in this subparagraph is the final regulation relating to health-care-related taxes under the Medicaid program published on February 22, 2008 (73 Federal Register 9685) in its entirety.

(ii) EXCEPTION.—The provision described in this subparagraph does not include the portions of such regulation as relate to the following:

(I) REDUCTION IN THRESHOLD.—The reduction from 6 percent to 5.5 percent in the threshold applied under section 433.68(f)(3)(i) of title 42, Code of Federal Regulations, for determining whether or not there is an indirect guarantee to hold a taxpayer harmless, as required to carry out section 1903(w)(4)(C)(ii) of the Social Security Act, as added by section 403 of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109–432).

(II) CHANGE IN DEFINITION OF MANAGED CARE.—The change in the definition of managed care as proposed in the revision of section 433.56(a)(8) of title 42, Code of Federal Regulations, as required to carry out section 1903(w)(7)(A)(viii) of the Social Security Act, as amended by section 6051 of the Deficit Reduction Act of 2005 (Public Law 109–171).

(D) DATE SPECIFIED.—The date specified in this subparagraph for the provision described in—

(i) subparagraph (B) is September 27, 2007; or

(ii) subparagraph (C) is February 21, 2008.

(b) RESTORATION OF ACCESS TO NOMINAL DRUG PRICING FOR CERTAIN CLINICS AND HEALTH CENTERS.—

(1) IN GENERAL.—Section 1927(c)(1)(D) of the Social Security Act (42 U.S.C. §1396r–8(c)(1)(D)), as added by section 6001(d)(2) of the Deficit Reduction Act of 2005 (Public Law 109–171), is amended—

(A) in clause (i)—

(i) by redesignating subclause (IV) as subclause (VI); and

(ii) by inserting after subclause (III) the following:

''(IV) An entity that—

''(aa) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Act or is State-owned or operated; and

''(bb) would be a covered entity described in section 340(B)(a)(4) of the Public Health Service Act insofar as the entity provides the same type of services to the same type of populations as a covered entity described in such section provides, but does not receive funding under a provision of law referred to in such section.

''(V) A public or nonprofit entity, or an entity based at an institution of higher learning whose primary purpose is to provide health care services to students of that institution, that provides a service or services described under section 1001(a) of the Public Health Service Act.''; and

(B) by adding at the end the following new clause:

''(iv) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to alter any existing statutory or regulatory prohibition on services with respect to an entity described in subclause (IV) or (V) of clause (i), including the prohibition set forth in section 1008 of the Public Health Service Act.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendment made by section 6001(d)(2) of the Deficit Reduction Act of 2005.

(c) ASSET VERIFICATION THROUGH ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS.—

(1) ADDITION OF AUTHORITY.—Title XIX of the Social Security Act is amended by inserting after section 1939 the following new section:

''ASSET VERIFICATION THROUGH ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS

''SEC. 1940. (a) IMPLEMENTATION.—

''(1) IN GENERAL.—Subject to the provisions of this section, each State shall implement an asset verification program described in subsection (b), for purposes of determining or redetermining the eligibility of an individual for medical assistance under the State plan under this title.

''(2) PLAN SUBMITTAL.—In order to meet the requirement of paragraph (1), each State shall—

''(A) submit not later than a deadline specified by the Secretary consistent with paragraph (3), a State plan amendment under this title that describes how the State intends to implement the asset verification program; and

''(B) provide for implementation of such program for eligibility determinations and redeterminations made on or after 6 months after the deadline established for submittal of such plan amendment.

''(3) PHASE-IN.—

''(A) IN GENERAL.—

''(i) IMPLEMENTATION IN CURRENT ASSET VERIFICATION DEMO STATES.—The Secretary shall require those States specified in subparagraph (C) (to which an asset verification program has been applied before the date of the enactment of this section) to implement an asset verification program under this subsection by the end of fiscal year 2009.

''(ii) IMPLEMENTATION IN OTHER STATES.—The Secretary shall require other States to submit and implement an asset verification program under this subsection in such manner as is designed to result in the application of such programs, in the aggregate for all such other States, to enrollment of approximately, but not less than, the following percentage of enrollees, in the aggregate for all such other States, by the end of the fiscal year involved:

''(I) 12.5 percent by the end of fiscal year 2009.

''(II) 25 percent by the end of fiscal year 2010.

''(III) 50 percent by the end of fiscal year 2011.

''(IV) 75 percent by the end of fiscal year 2012.

''(V) 100 percent by the end of fiscal year 2013.

''(B) CONSIDERATION.—In selecting States under subparagraph (A)(ii), the Secretary shall consult with the States involved and take into account the feasibility of implementing asset verification programs in each such State.

''(C) STATES SPECIFIED.—The States specified in this subparagraph are California, New York, and New Jersey.

''(D) CONSTRUCTION.—Nothing in subparagraph (A)(ii) shall be construed as preventing a State from requesting, and the Secretary approving, the implementation of an asset verification program in advance of the deadline otherwise established under such subparagraph.

''(4) EXEMPTION OF TERRITORIES.—This section shall only apply to the 50 States and the District of Columbia.

''(b) ASSET VERIFICATION PROGRAM.—

''(1) IN GENERAL.—For purposes of this section, an asset verification program means a program described in paragraph (2) under which a State—

''(A) requires each applicant for, or recipient of, medical assistance under the State plan under this title on the basis of being aged, blind, or disabled to provide authorization by such applicant or recipient (and any other person whose resources are required by law to be disclosed to determine the eligibility of the applicant or recipient for such assistance) for the State to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act of 1978 but at no cost to the applicant or recipient) from any financial institution (within the meaning of section 1101(1) of such Act) any financial record (within the

meaning of section 1101(2) of such Act) held by the institution with respect to the applicant or recipient (and such other person, as applicable), whenever the State determines the record is needed in connection with a determination with respect to such eligibility for (or the amount or extent of) such medical assistance; and

''(B) uses the authorization provided under subparagraph (A) to verify the financial resources of such applicant or recipient (and such other person, as applicable), in order to determine or redetermine the eligibility of such applicant or recipient for medical assistance under the State plan.

''(2) PROGRAM DESCRIBED.—A program described in this paragraph is a program for verifying individual assets in a manner consistent with the approach used by the Commissioner of Social Security under section 1631(e)(1)(B)(ii).

''(c) DURATION OF AUTHORIZATION.—Notwithstanding section 1104(a)(1) of the Right to Financial Privacy Act of 1978, an authorization provided to a State under subsection (b)(1)(A) shall remain effective until the earliest of—

''(1) the rendering of a final adverse decision on the applicant's application for medical assistance under the State's plan under this title;

''(2) the cessation of the recipient's eligibility for such medical assistance; or

''(3) the express revocation by the applicant or recipient (or such other person described in subsection (b)(1)(A), as applicable) of the authorization, in a written notification to the State.

''(d) TREATMENT OF RIGHT TO FINANCIAL PRIVACY ACT REQUIREMENTS.—

''(1) An authorization obtained by the State under subsection (b)(1) shall be considered to meet the requirements of the Right to Financial Privacy Act of 1978 for purposes of section 1103(a) of such Act, and need not be furnished to the financial institution, notwithstanding section 1104(a) of such Act.

''(2) The certification requirements of section 1103(b) of the Right to Financial Privacy Act of 1978 shall not apply to requests by the State pursuant to an authorization provided under subsection (b)(1).

''(3) A request by the State pursuant to an authorization provided under subsection (b)(1) is deemed to meet the requirements of section 1104(a)(3) of the Right to Financial Privacy Act of 1978 and of section 1102 of such Act, relating to a reasonable description of financial records.

''(e) REQUIRED DISCLOSURE.—The State shall inform any person who provides authorization pursuant to subsection (b)(1)(A) of the duration and scope of the authorization.

''(f) REFUSAL OR REVOCATION OF AUTHORIZATION.—If an applicant for, or recipient of, medical assistance under the State plan under this title (or such other person described in subsection (b)(1)(A), as applicable) refuses to provide, or revokes, any authorization made by the applicant or recipient (or such other person, as applicable) under subsection (b)(1)(A) for the State to obtain from any financial institution any financial record, the State may, on that basis, determine that the applicant or recipient is ineligible for medical assistance.

''(g) USE OF CONTRACTOR.—For purposes of implementing an asset verification program under this section, a State may select and enter into a contract with a public or private entity meeting such criteria and qualifications as the State determines appropriate, consistent with requirements in regulations relating to general contracting provisions and with section 1903(i)(2). In carrying out activities under such contract, such an entity shall be subject to the same requirements and limitations on use and disclosure of information as would apply if the State were to carry out such activities directly.

''(h) TECHNICAL ASSISTANCE.—The Secretary shall provide States with technical assistance to aid in implementation of an asset verification program under this section.

''(i) REPORTS.—A State implementing an asset verification program under this section shall furnish to the Secretary such reports concerning the program, at such times, in such format, and containing such information as the Secretary determines appropriate.

''(j) TREATMENT OF PROGRAM EXPENSES.—Notwithstanding any other provision of law, reasonable expenses of States in carrying out the program under this section shall be treated, for purposes of section 1903(a), in the same manner as State expenditures specified in paragraph (7) of such section.''.

(2) STATE PLAN REQUIREMENTS.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (69) by striking ''and'' at the end;

(B) in paragraph (70) by striking the period at the end and inserting ''; and''; and

(C) by inserting after paragraph (70), as so amended, the following new paragraph:

''(71) provide that the State will implement an asset verification program as required under section 1940.''.

(3) WITHHOLDING OF FEDERAL MATCHING PAYMENTS FOR NONCOMPLIANT STATES.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(A) in paragraph (22) by striking ''or'' at the end;

(B) in paragraph (23) by striking the period at the end and inserting ''; or''; and

(C) by adding after paragraph (23) the following new paragraph:

''(24) if a State is required to implement an asset verification program under section 1940 and fails to implement such program in accordance with such section, with respect to amounts expended by such State for medical assistance for individuals subject to asset verification under such section, unless—

''(A) the State demonstrates to the Secretary's satisfaction that the State made a good faith effort to comply;

''(B) not later than 60 days after the date of a finding that the State is in noncompliance, the State submits to the Secretary (and the Secretary approves) a corrective action plan to remedy such noncompliance; and

''(C) not later than 12 months after the date of such submission (and approval), the State fulfills the terms of such corrective action plan.''.

(4) REPEAL.—Section 4 of Public Law 110–90 is repealed.

SEC. 6002. LIMITATION ON MEDICARE EXCEPTION TO THE PROHIBITION ON CERTAIN PHYSICIAN REFERRALS FOR HOSPITALS.—

(a) IN GENERAL.—Section 1877 of the Social Security Act (42 U.S.C. 1395nn) is amended—

(1) in subsection (d)(2)—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(C) in the case where the entity is a hospital, the hospital meets the requirements of paragraph (3)(D).'';

(2) in subsection (d)(3)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(D) the hospital meets the requirements described in subsection (i)(1) not later than 18 months after the date of the enactment of this subparagraph.''; and

(3) by adding at the end the following new subsection:

''(i) REQUIREMENTS FOR HOSPITALS TO QUALIFY FOR HOSPITAL EXCEPTION TO OWNERSHIP OR INVESTMENT PROHIBITION.—

''(1) REQUIREMENTS DESCRIBED.—For purposes of subsection (d)(3)(D), the requirements described in this paragraph for a hospital are as follows:

''(A) PROVIDER AGREEMENT.—The hospital had—

''(i) physician ownership on September 1, 2008; and

''(ii) a provider agreement under section 1866 in effect on such date.

''(B) LIMITATION ON EXPANSION OF FACILITY CAPACITY.—Except as provided in paragraph (3), the number of operating rooms, procedure rooms, and beds of the hospital at any time on or after the date of the enactment of this subsection are no greater than the number of operating rooms, procedure rooms, and beds as of such date.

''(C) PREVENTING CONFLICTS OF INTEREST.—

''(i) The hospital submits to the Secretary an annual report containing a detailed description of—

''(I) the identity of each physician owner and any other owners of the hospital; and

''(II) the nature and extent of all ownership interests in the hospital.

''(ii) The hospital has procedures in place to require that any referring physician owner discloses to the patient being referred, by a time that permits the patient to make a meaningful decision regarding the receipt of care, as determined by the Secretary—

''(I) the ownership interest of such referring physician in the hospital; and

''(II) if applicable, any such ownership interest of the treating physician.

''(iii) The hospital does not condition any physician ownership interests either directly or indirectly on the physician owner making or influencing referrals to the hospital or otherwise generating business for the hospital.

''(iv) The hospital discloses the fact that the hospital is partially owned by physicians—

''(I) on any public website for the hospital; and

''(II) in any public advertising for the hospital.

''(D) ENSURING BONA FIDE INVESTMENT.—

''(i) Physician owners in the aggregate do not own more than the greater of—

''(I) 40 percent of the total value of the investment interests held in the hospital or in an entity whose assets include the hospital; or

''(II) the percentage of such total value determined on the date of enactment of this subsection.

''(ii) Any ownership or investment interests that the hospital offers to a physician owner are not offered on more favorable terms than the terms offered to a person who is not a physician owner.

''(iii) The hospital (or any investors in the hospital) does not directly or indirectly provide loans or financing for any physician owner investments in the hospital.

''(iv) The hospital (or any investors in the hospital) does not directly or indirectly guarantee a loan, make a payment toward a loan, or otherwise subsidize a loan, for any individual physician owner or group of physician owners that is related to acquiring any ownership interest in the hospital.

''(v) Investment returns are distributed to each investor in the hospital in an amount that is directly proportional to the ownership interest of such investor in the hospital.

''(vi) Physician owners do not receive, directly or indirectly, any guaranteed receipt

of or right to purchase other business interests related to the hospital, including the purchase or lease of any property under the control of other investors in the hospital or located near the premises of the hospital.

''(vii) The hospital does not offer a physician owner the opportunity to purchase or lease any property under the control of the hospital or any other investor in the hospital on more favorable terms than the terms offered to an individual who is not a physician owner.

''(E) PATIENT SAFETY.—

''(i) Insofar as the hospital admits a patient and does not have any physician available on the premises to provide services during all hours in which the hospital is providing services to such patient, before admitting the patient—

''(I) the hospital discloses such fact to a patient; and

''(II) following such disclosure, the hospital receives from the patient a signed acknowledgment that the patient understands such fact.

''(ii) The hospital has the capacity to—

''(I) provide assessment and initial treatment for patients; and

''(II) refer and transfer patients to hospitals with the capability to treat the needs of the patient involved.

''(F) LIMITATION ON APPLICATION TO CERTAIN CONVERTED FACILITIES.—The hospital was not converted from an ambulatory surgical center to a hospital on or after the date of enactment of this subsection.

''(2) PUBLICATION OF INFORMATION REPORTED.—The Secretary shall publish, and update on an annual basis, the information submitted by hospitals under paragraph (1)(C)(i) on the public Internet website of the Centers for Medicare & Medicaid Services.

''(3) EXCEPTION TO PROHIBITION ON EXPANSION OF FACILITY CAPACITY.—

''(A) PROCESS.—

''(i) ESTABLISHMENT.—The Secretary shall establish and implement a process under which an applicable hospital (as defined in subparagraph (E)) may apply for an exception from the requirement under paragraph (1)(B).

''(ii) OPPORTUNITY FOR COMMUNITY INPUT.—The process under clause (i) shall provide individuals and entities in the community that the applicable hospital applying for an exception is located with the opportunity to provide input with respect to the application.

''(iii) TIMING FOR IMPLEMENTATION.—The Secretary shall implement the process under clause (i) on November 1, 2009.

''(iv) REGULATIONS.—Not later than November 1, 2009, the Secretary shall promulgate regulations to carry out the process under clause (i).

''(B) FREQUENCY.—The process described in subparagraph (A) shall permit an applicable hospital to apply for an exception up to once every 2 years.

''(C) PERMITTED INCREASE.—

''(i) IN GENERAL.—Subject to clause (ii) and subparagraph (D), an applicable hospital granted an exception under the process described in subparagraph (A) may increase the number of operating rooms, procedure rooms, and beds of the applicable hospital above the baseline number of operating rooms, procedure rooms, and beds of the applicable hospital (or, if the applicable hospital has been granted a previous exception under this paragraph, above the number of operating rooms, procedure rooms, and beds of the hospital after the application of the most recent increase under such an exception).

''(ii) LIFETIME 100 PERCENT INCREASE LIMITATION.—The Secretary shall not permit an increase in the number of operating rooms, procedure rooms, and beds of an applicable hospital under clause (i) to the extent such increase would result in the number of operating rooms, procedure rooms, and beds of the applicable hospital exceeding 200 percent of the baseline number of operating rooms, procedure rooms, and beds of the applicable hospital.

''(iii) BASELINE NUMBER OF OPERATING ROOMS, PROCEDURE ROOMS, AND BEDS.—In this paragraph, the term 'baseline number of operating rooms, procedure rooms, and beds' means the number of operating rooms, procedure rooms, and beds of the applicable hospital as of the date of enactment of this subsection.

''(D) INCREASE LIMITED TO FACILITIES ON THE MAIN CAMPUS OF THE HOSPITAL.—Any increase in the number of operating rooms, procedure rooms, and beds of an applicable hospital pursuant to this paragraph may only occur in facilities on the main campus of the applicable hospital.

''(E) APPLICABLE HOSPITAL.—In this paragraph, the term ''applicable hospital'' means a hospital—

''(i) that is located in a county in which the percentage increase in the population during the most recent 5-year period (as of the date of the application under subparagraph (A)) is at least 150 percent of the percentage increase in the population growth of the State in which the hospital is located during that period, as estimated by Bureau of the Census;

''(ii) whose annual percent of total inpatient admissions that represent inpatient admissions under the program under title XIX is equal to or greater than the average percent with respect to such admissions for all hospitals located in the county in which the hospital is located;

''(iii) that does not discriminate against beneficiaries of Federal health care programs and does not permit physicians practicing at the hospital to discriminate against such beneficiaries;

''(iv) that is located in a State in which the average bed capacity in the State is less than the national average bed capacity; and

''(v) that has an average bed occupancy rate that is greater than the average bed occupancy rate in the State in which the hospital is located.

''(F) PROCEDURE ROOMS.—In this subsection, the term 'procedure rooms' includes rooms in which catheterizations, angiographies, angiograms, and endoscopies are performed, except such term shall not include emergency rooms or departments (exclusive of rooms in which catheterizations, angiographies, angiograms, and endoscopies are performed).

''(G) PUBLICATION OF FINAL DECISIONS.—Not later than 60 days after receiving a complete application under this paragraph, the Secretary shall publish in the Federal Register the final decision with respect to such application.

''(H) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of the process under this paragraph (including the establishment of such process).

''(4) COLLECTION OF OWNERSHIP AND INVESTMENT INFORMATION.—For purposes of subparagraphs (A)(i) and (D)(i) of paragraph (1), the Secretary shall collect physician ownership and investment information for each hospital.

''(5) PHYSICIAN OWNER DEFINED.—For purposes of this subsection, the term 'physician owner' means a physician (or an immediate family member of such physician) with a direct or an indirect ownership interest in the hospital.''.

(b) ENFORCEMENT.—

(1) ENSURING COMPLIANCE.—The Secretary of Health and Human Services shall establish policies and procedures to ensure compliance with the requirements described in subsection (i)(1) of section 1877 of the Social Security Act, as added by subsection (a)(3), beginning on the date such requirements first apply. Such policies and procedures may include unannounced site reviews of hospitals.

(2) AUDITS.—Beginning not later than January 1, 2010, the Secretary of Health and Human Services shall conduct audits to determine if hospitals violate the requirements referred to in paragraph (1).

SEC. 6003. Medicare Improvement Fund.—

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

''MEDICARE IMPROVEMENT FUND

''SEC. 1898. (a) ESTABLISHMENT.—The Secretary shall establish under this title a Medicare Improvement Fund (in this section referred to as the 'Fund') which shall be available to the Secretary to make improvements under the original fee-for-service program under parts A and B for individuals entitled to, or enrolled for, benefits under part A or enrolled under part B.

''(b) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Fund, for expenditures from the Fund for services furnished during fiscal year 2014, $3,340,000,000.

''(2) PAYMENT FROM TRUST FUNDS.—The amount specified under paragraph (1) shall be available to the Fund, as expenditures are made from the Fund, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines appropriate.

''(3) FUNDING LIMITATION.—Amounts in the Fund shall be available in advance of appropriations but only if the total amount obligated from the Fund does not exceed the amount available to the Fund under paragraph (1). The Secretary may obligate funds from the Fund only if the Secretary determines (and the Chief Actuary of the Centers for Medicare & Medicaid Services and the appropriate budget officer certify) that there are available in the Fund sufficient amounts to cover all such obligations incurred consistent with the previous sentence.''.

SEC. 6004. MORATORIUM ON AUGUST 17, 2007 CMS DIRECTIVE. Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, finalize, implement, enforce, or otherwise take any action to give effect to any or all components of the State Health Official Letter 07–001, dated August 17, 2007, issued by the Director of the Center for Medicaid and State Operations in the Centers for Medicare & Medicaid Services regarding certain requirements under the State Children's Health Insurance Program (CHIP) relating to the prevention of the substitution of health benefits coverage for children (commonly referred to as ''crowd-out'') and the enforcement of medical support orders (or to any similar administrative actions that reflect the same or similar policies set forth in such letter). Any change made on or after August 17, 2007, to a Medicaid or CHIP State plan or waiver to implement, conform to, or otherwise adhere to the requirements or policies in such letter shall not apply prior to April 1, 2009.

SEC. 6005. ADJUSTMENT TO PAQI FUND. Section 1848(l)(2) of the Social Security Act (42 U.S.C. 1395w–4(l)(2)), as amended by section 101(a)(2) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended—

(1) in subparagraph (A)(i)—

(A) in subclause (III), by striking ''$4,960,000,000'' and inserting ''$3,940,000,000''; and

(B) by adding at the end the following new subclause:

''(IV) For expenditures during 2014, an amount equal to $3,750,000,000.'';

(2) in subparagraph (A)(ii), by adding at the end the following new subclause:

''(IV) 2014.—The amount available for expenditures during 2014 shall only be available for an adjustment to the update of the conversion factor under subsection (d) for that year.''; and

(3) in subparagraph (B)—

(A) in clause (ii), by striking ''and'' at the end;

(B) in clause (iii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new clause:

''(iv) 2014 for payment with respect to physicians' services furnished during 2014.''.

TITLE VII—ACCOUNTABILITY AND COMPETITION IN GOVERNMENT CONTRACTING

CHAPTER 1—CLOSE THE CONTRACTOR FRAUD LOOPHOLE

SHORT TITLE

SEC. 7101. This chapter may be cited as the ''Close the Contractor Fraud Loophole Act''.

REVISION OF THE FEDERAL ACQUISITION REGULATION

SEC. 7102. The Federal Acquisition Regulation shall be amended within 180 days after the date of the enactment of this Act pursuant to FAR Case 2007–006 (as published at 72 Fed Reg. 64019, November 14, 2007) or any follow-on FAR case to include provisions that require timely notification by Federal contractors of violations of Federal criminal law or overpayments in connection with the award or performance of covered contracts or subcontracts, including those performed outside the United States and those for commercial items.

DEFINITION

SEC. 7103. In this chapter, the term ''covered contract'' means any contract in an amount greater than $5,000,000 and more than 120 days in duration.

CHAPTER 2—GOVERNMENT FUNDING TRANSPARENCY

SHORT TITLE

SEC. 7201. This chapter may be cited as the ''Government Funding Transparency Act of 2008''.

FINANCIAL DISCLOSURE REQUIREMENTS FOR CERTAIN RECIPIENTS OF FEDERAL AWARDS

SEC. 7202. (a) DISCLOSURE REQUIREMENTS.—Section 2(b)(1) of the Federal Funding Accountability and Transparency Act (Public Law 109–282; 31 U.S.C. 6101 note) is amended—

(1) by striking ''and'' at the end of subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following new subparagraph:

''(F) the names and total compensation of the five most highly compensated officers of the entity if—

''(i) the entity in the preceding fiscal year received—

''(I) 80 percent or more of its annual gross revenues in Federal awards; and

''(II) $25,000,000 or more in annual gross revenues from Federal awards; and

''(ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.''.

(b) REGULATIONS REQUIRED.—The Director of the Office of Management and Budget shall promulgate regulations to implement the amendment made by this chapter. Such regulations shall include a definition of ''total compensation'' that is consistent with regulations of the Securities and Exchange Commission at section 402 of part 229 of title 17 of the Code of Federal Regulations (or any subsequent regulation).

TITLE VIII—EMERGENCY AGRICULTURE RELIEF

SEC. 8001. DEFINITIONS.

In this title:

(1) AGRICULTURAL EMPLOYMENT.—The term ''agricultural employment'' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security.

(3) EMERGENCY AGRICULTURAL WORKER STATUS.—The term ''emergency agricultural worker status'' means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 8011(a).

(4) EMPLOYER.—The term ''employer'' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(5) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Homeland Security.

(6) WORK DAY.—The term ''work day'' means any day in which the individual is employed 5.75 or more hours in agricultural employment.

SEC. 8002. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act.

(b) EXCEPTION.—Sections 8021 and 8031 shall take effect on the date that is 1 year after the date of the enactment of this Act.

Subtitle A—Emergency Agricultural Workers

SEC. 8011. REQUIREMENTS FOR EMERGENCY AGRICULTURAL WORKER STATUS.

(a) REQUIREMENT TO GRANT EMERGENCY AGRICULTURAL WORKER STATUS.—Notwithstanding any other provision of law, the Secretary shall, pursuant to the requirements of this section, grant emergency agricultural worker status to an alien who qualifies under this section if the Secretary determines that the alien—

(1) during the 48-month period ending on December 31, 2007—

(A) performed agricultural employment in the United States for at least 863 hours or 150 work days; or

(B) earned at least $7,000 from agricultural employment;

(2) applied for emergency agricultural worker status during the 18-month application period beginning on the first day of the seventh month that begins after the date of the enactment of this Act;

(3) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under section 8014; and

(4) has not been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or damage to property in excess of $500.

(b) AUTHORIZED TRAVEL.—An alien who is granted emergency agricultural worker status is authorized to travel outside the United States (including commuting to the United States from a residence in a foreign country) in the same manner as an alien lawfully admitted for permanent residence.

(c) AUTHORIZED EMPLOYMENT.—The Secretary shall provide an alien who is granted emergency agricultural worker status an employment authorized endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(d) TERMINATION OF EMERGENCY AGRICULTURAL WORKER STATUS.—The Secretary shall terminate emergency agricultural worker status if—

(1) the Secretary determines that the alien is deportable;

(2) the Secretary finds, by a preponderance of the evidence, that the adjustment to emergency agricultural worker status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)));

(3) the alien—

(A) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under section 8014;

(B) is convicted of a felony or at least 3 misdemeanors committed in the United States;

(C) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500; or

(D) fails to pay any applicable Federal tax liability pursuant to section 8012(d); or

(4) the Secretary determines that the alien has not fulfilled the work requirement described in subsection (e) during any 1-year period in which the alien was in such status and the Secretary has not waived such requirement under subsection (e)(3).

(e) WORK REQUIREMENT.—

(1) IN GENERAL.—An alien shall perform at least 100 work days of agricultural employment per year to maintain emergency agricultural worker status under this section.

(2) PROOF.—An alien may demonstrate compliance with the requirement under paragraph (1) by submitting—

(A) the record of employment described in paragraph (4); or

(B) the documentation described in section 8013(c)(1).

(3) WAIVER FOR EXTRAORDINARY CIRCUMSTANCES.—

(A) IN GENERAL.—The Secretary may waive the requirement under paragraph (1) for any year in which the alien was unable to work in agricultural employment due to—

(i) pregnancy, injury, or disease, if the alien can establish such pregnancy, disabling injury, or disease through medical records;

(ii) illness, disease, or other special needs of a minor child, if the alien can establish such illness, disease, or special needs through medical records;

(iii) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time; or

(iv) termination from agricultural employment without just cause, if the alien establishes that he or she was unable to find alternative agricultural employment after a reasonable job search.

(B) LIMITATION.—A waiver granted under subparagraph (A)(iv) shall not be conclusive, binding, or admissible in a separate or subsequent action or proceeding between the employee and the employee's current or prior employer.

(4) RECORD OF EMPLOYMENT.—

(A) REQUIREMENT.—Each employer of an alien granted emergency agricultural worker status shall annually provide—

(i) a written record of employment to the alien; and

(ii) a copy of such record to the Secretary.

(B) CIVIL PENALTIES.—

(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted emergency agricultural worker status has failed to provide the record of employment required under subparagraph (A) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(f) REQUIRED FEATURES OF IDENTITY CARD.—The Secretary shall provide each alien granted emergency agricultural worker status, and the spouse and any child of each such alien residing in the United States, with a card that contains—

(1) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(2) biometric identifiers, including fingerprints and a digital photograph; and

(3) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(g) FINE.—An alien granted emergency agricultural worker status shall pay a fine of $250 to the Secretary.

(h) MAXIMUM NUMBER.—The Secretary may not issue more than 1,350,000 emergency agricultural worker cards during the 5-year period beginning on the date of the enactment of this Act.

(i) MAXIMUM LENGTH OF EMERGENCY AGRICULTURAL WORKER STATUS.—Emergency agricultural worker status granted under this section shall continue until the earlier of—

(1) the date on which such status is terminated pursuant to subsection (d); or

(2) 5 years after the date on which such status is granted.

SEC. 8012. TREATMENT OF ALIENS GRANTED EMERGENCY AGRICULTURAL WORKER STATUS.

(a) IN GENERAL.—Except as otherwise provided under this section, an alien granted emergency agricultural worker status (including a spouse or child granted derivative status) shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(b) INELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien granted emergency agricultural worker status (including a spouse or child granted derivative status) shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) while in such status.

(c) FEDERAL TAX LIABILITY APPLIES.—

(1) IN GENERAL.—An alien granted emergency agricultural worker status shall pay any applicable Federal tax liability, including penalties and interest, owed for any year during the period of employment required under section 8011(e) for which the statutory period for assessment of any deficiency for such taxes has not expired.

(2) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all taxes required under this subsection.

(d) TREATMENT OF SPOUSES AND MINOR CHILDREN.—

(1) GRANTING OF STATUS AND REMOVAL.—The Secretary shall grant derivative status to the alien spouse and any minor child residing in the United States of an alien granted emergency agricultural worker status and shall not remove such derivative spouse or child during the period in which the principal alien maintains such status, except as provided in paragraph (4). A grant of derivative status to such a spouse or child under this subparagraph shall not decrease the number of aliens who may receive emergency agricultural worker status under section 8011(h).

(2) TRAVEL.—The derivative spouse and any minor child of an alien granted emergency agricultural worker status may travel outside the United States in the same manner as an alien lawfully admitted for permanent residence.

(3) EMPLOYMENT.—The derivative spouse of an alien granted emergency agricultural worker status may apply to the Secretary for a work permit to authorize such spouse to engage in any lawful employment in the United States while such alien maintains emergency agricultural worker status.

(4) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.—The Secretary shall deny an alien spouse or child adjustment of status under paragraph (1) and shall remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(A) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under section 8014;

(B) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(C) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(e) ADJUSTMENT OF STATUS.—Nothing in this Act may be construed to prevent an alien from seeking adjustment of status in accordance with any other provision of law if the alien is otherwise eligible for such adjustment of status.

SEC. 8013. APPLICATIONS.

(a) SUBMISSION.—Applications for emergency agricultural worker status may be submitted to—

(1) the Secretary, if the applicant is represented by an attorney or a nonprofit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(2) a qualified designated entity if the applicant consents to the forwarding of the application to the Secretary.

(b) QUALIFIED DESIGNATED ENTITY DEFINED.—In this section, the term ''qualified designated entity'' means—

(1) a qualified farm labor organization or an association of employers designated by the Secretary; or

(2) any such other person designated by the Secretary if the Secretary determines such person is qualified and has substantial experience, demonstrated competence, and a history of long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act (8 U.S.C. 1159, 1160, and 1255), the Act entitled ''An Act to adjust the status of Cuban refugees to that of lawful permanent residents of the United States, and for other purposes'', approved November 2, 1966 (Public Law 89–732; 8 U.S.C. 1255 note), Public Law 95–145 (8 U.S.C. 1255 note), or the Immigration Reform and Control Act of 1986 (Public Law 99–603; 100 Stat. 3359) or any amendment made by that Act.

(c) PROOF OF ELIGIBILITY.—

(1) IN GENERAL.—An alien may establish that the alien meets the requirement of subsections (a)(1) and (e)(1) of section 8011 through government employment records or records supplied by employers or collective bargaining organizations, and such other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(2) DOCUMENTATION OF WORK HISTORY.—

(A) BURDEN OF PROOF.—An alien applying for emergency agricultural worker status has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days required under section 8011(a)(1).

(B) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under subparagraph (A) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(C) SUFFICIENT EVIDENCE.—An alien may meet the burden of proof under subparagraph (A) to establish that the alien has performed the days or hours of work required under section 8011(a)(1) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(d) APPLICATIONS SUBMITTED TO QUALIFIED DESIGNATED ENTITIES.—

(1) REQUIREMENTS.—Each qualified designated entity shall agree—

(A) to forward to the Secretary an application submitted to that entity pursuant to subsection (a)(2) if the applicant has consented to such forwarding;

(B) not to forward to the Secretary any such application if the applicant has not consented to such forwarding; and

(C) to assist an alien in obtaining documentation of the alien's work history, if the alien requests such assistance.

(2) NO AUTHORITY TO MAKE DETERMINATIONS.—No qualified designated entity may make a determination required under this title to be made by the Secretary.

(e) LIMITATION ON ACCESS TO INFORMATION.—Files and records collected or compiled by a qualified designated entity for the purposes of this section are confidential and the Secretary shall not have access to such a file or record relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to subsection (f).

(f) CONFIDENTIALITY OF INFORMATION.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary or any other official or employee of the Department or a bureau or agency of the Department is prohibited from—

(A) using information furnished by the applicant pursuant to an application filed under this title, the information provided by an applicant to a qualified designated entity, or any information provided by an employer or former employer for any purpose other than to make a determination on the application or for imposing the penalties described in subsection (g);

(B) making any publication in which the information furnished by any particular individual can be identified; or

(C) permitting a person other than a sworn officer or employee of the Department or a bureau or agency of the Department or, with respect to applications filed with a qualified

designated entity, that qualified designated entity, to examine individual applications.

(2) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished under this title or any other information derived from such furnished information to—

(A) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; and

(B) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(3) CONSTRUCTION.—

(A) IN GENERAL.—Nothing in this subsection shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes, of information contained in files or records of the Department pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(B) CRIMINAL CONVICTIONS.—Notwithstanding any other provision of this subsection, information concerning whether the alien applying for emergency agricultural worker status has been convicted of a crime at any time may be used or released for immigration enforcement or law enforcement purposes.

(4) CRIME.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this subsection shall be subject to a fine in an amount not to exceed $10,000.

(g) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(1) CRIMINAL PENALTY.—Any person who—

(A) files an application for emergency agricultural worker status and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or

(B) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(h) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for emergency agricultural worker status.

(i) APPLICATION FEES.—

(1) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(A) shall be charged for the filing of an application for emergency agricultural worker status; and

(B) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(2) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under paragraph (1)(B) for services provided to applicants.

(3) DISPOSITION OF FEES.—

(A) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the ''Agricultural Worker Immigration Status Adjustment Account''. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under paragraph (1)(A).

(B) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the ''Agricultural Worker Immigration Status Adjustment Account'' shall remain available to the Secretary until expended for processing applications for emergency agricultural worker status.

SEC. 8014. WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.

(a) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for emergency agricultural worker status, the following rules shall apply:

(1) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(2) WAIVER OF OTHER GROUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(B) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C), (2)(D), (2)(G), (2)(H), (2)(I), (3), and (4) of such section 212(a) may not be waived by the Secretary under subparagraph (A).

(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(3) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for emergency agricultural worker status by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(b) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of the enactment of this Act, an alien who is apprehended before the beginning of the application period described in section 8011(a)(2) and who can establish a nonfrivolous case of eligibility for emergency agricultural worker status (but for the fact that the alien may not apply for such status until the beginning of such period)—

(A) may not be removed until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for such status; and

(B) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—An alien who presents a nonfrivolous application for emergency agricultural worker status during the application period described in section 8011(a)(2), including an alien who files such an application not later than 30 days after the alien's apprehension—

(A) may not be removed until a final determination on the application has been made in accordance with this section; and

(B) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

SEC. 8015. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for emergency agricultural worker status under this title.

(b) ADMINISTRATIVE REVIEW.—

(1) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(2) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(c) JUDICIAL REVIEW.—

(1) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(2) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

SEC. 8016. DISSEMINATION OF INFORMATION.

Beginning not later than the first day of the application period described in section 8011(a)(2), the Secretary, in cooperation with qualified designated entities (as that term is defined in section 8013(b)), shall broadly disseminate information respecting the benefits that aliens may receive under this title and the requirements that an alien is required to meet to receive such benefits.

SEC. 8017. RULEMAKING; EFFECTIVE DATE; AUTHORIZATION OF APPROPRIATIONS.

(a) RULEMAKING.—The Secretary shall issue regulations to implement this title not later than the first day of the seventh month that begins after the date of the enactment of this Act.

(b) EFFECTIVE DATE.—Except as otherwise provided, this title shall take effect on the date that regulations required under subsection (a) are issued, regardless of whether such regulations are issued on an interim basis or on any other basis.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal years 2008 and 2009 such sums as may be necessary to implement this title.

SEC. 8018. PRECLUSION OF SOCIAL SECURITY CREDITS FOR PERIODS WITHOUT WORK AUTHORIZATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by adding at the end the following:

''(d)(1) Except as provided in paragraph (2), for purposes of subsections (a) and (b), no quarter of coverage shall be credited for any calendar year beginning on or after January 1, 2004, with respect to an individual granted emergency agricultural worker status under section 8011 of the Emergency Agriculture Relief Act of 2008, unless the Commissioner of Social Security determines, on the basis of information provided to the Commissioner in accordance with an agreement under subsection (e) or otherwise, that the individual was authorized to be employed in the United States during such quarter.

''(2) Paragraph (1) shall not apply to an individual who was assigned a social security account number before January 1, 2004.

''(e) Not later than 180 days after the date of the enactment of this subsection, the Secretary of Homeland Security shall enter into an agreement with the Commissioner of Social Security to provide such information as the Commissioner determines necessary to carry out the limitation on crediting quarters of coverage under subsection (d).''.

(b) BENEFIT COMPUTATION.—Section 215(e) of the Social Security Act (42 U.S.C. 415(e)) is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) in computing the average indexed monthly earnings of an individual, wages or self-employment income shall not be counted for any year for which no quarter of coverage may be credited to such individual pursuant to section 214(d).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit applications filed on or after the date that is 180 days after the date of the enactment of this Act based on the wages or self-employment income of an individual with respect to whom a primary insurance amount has not been determined under title II of the Social Security Act (42 U.S.C. 401 et seq.) before such date.

SEC. 8019. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) IN GENERAL.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking ''or'' at the end;

(2) in subparagraph (C), by inserting ''or'' at the end;

(3) by inserting after subparagraph (C) the following:

''(D) who is granted emergency agricultural worker status under the Emergency Agriculture Relief Act of 2008,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted emergency agricultural worker status.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

Subtitle B—H–2A Worker Program

SEC. 8021. REFORM OF H–2A WORKER PROGRAM.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by striking section 218 and inserting the following:

''SEC. 218. H–2A EMPLOYER APPLICATIONS.

''(a) APPLICATIONS TO THE SECRETARY OF LABOR.—

''(1) IN GENERAL.—No alien may be admitted to the United States as an H–2A worker, or otherwise provided status as an H–2A worker, unless the employer has filed with the Secretary of Labor an application containing—

''(A) the assurances described in subsection (b);

''(B) a description of the nature and location of the work to be performed;

''(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

''(D) the number of job opportunities in which the employer seeks to employ the workers.

''(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

''(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

''(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

''(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

''(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

''(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

''(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

''(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer has applied for an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218A to all workers employed in the job opportunities for which the employer has applied for an H–2A worker under subsection (a) and to all other workers in the same occupation at the place of employment.

''(D) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer has applied for an H–2A worker.

''(E) REQUIREMENTS FOR PLACEMENT OF THE NONIMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

''(i) the nonimmigrant performs duties in whole or in part at 1 or more worksites owned, operated, or controlled by such other employer;

''(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

''(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

''(F) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

''(G) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(H) EMPLOYMENT OF UNITED STATES WORKERS.—

''(i) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H–2A nonimmigrant is, or H–2A nonimmigrants are, sought:

''(I) CONTACTING FORMER WORKERS.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

''(II) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on 'America's Job Bank' or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

''(III) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

''(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not

complied with the provisions of this subparagraph because the employer's need for H–2A workers could not reasonably have been foreseen.

''(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrants are, sought and who will be available at the time and place of need.

''(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the H–2A worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the H–2A worker who is in the job was hired has elapsed, subject to the following requirements:

''(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H–2A workers in order to force the hiring of United States workers under this clause.

''(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

''(III) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

''(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

''(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

''(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218A, 218B, and 218C.

''(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

''(d) WITHDRAWAL OF APPLICATIONS.—

''(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

''(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

''(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H–2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

''(e) REVIEW AND APPROVAL OF APPLICATIONS.—

''(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or worksite, a copy of each such application (and such accompanying documents as are necessary).

''(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

''(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under subsection (a). Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

''(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.''

''SEC. 218A. H–2A WORKER EMPLOYMENT REQUIREMENTS.

''(a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

''(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

''(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

''(A) IN GENERAL.—An employer applying under section 218(a) for H–2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

''(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

''(C) FAMILY HOUSING.—If it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

''(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

''(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

''(F) CHARGES FOR HOUSING.—

''(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

''(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

''(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

''(i) IN GENERAL.—If the requirement set out in clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

''(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers and H–2A workers who are seeking temporary housing while employed in agricultural work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

''(iii) AMOUNT OF ALLOWANCE.—

''(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(2) REIMBURSEMENT OF TRANSPORTATION.—

''(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

''(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

''(C) LIMITATION.—

''(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

''(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

''(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

''(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

''(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

''(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORKSITE.—The employer shall provide transportation between the worker's living quarters and the employer's worksite without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

''(3) REQUIRED WAGES.—

''(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

''(B) LIMITATION.—Effective on the date of the enactment of the Emergency Agriculture Relief Act of 2008 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2008, as established by section 655.107 of title 20, Code of Federal Regulations.

''(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—If Congress does not set a new wage standard applicable to this section before March 1, 2012, the adverse effect wage rate for each State beginning on March 1, 2012 shall be the wage rate that would have resulted under the methodology in effect on January 1, 2008.

''(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

''(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

''(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

''(i) the worker's total earnings for the pay period;

''(ii) the worker's hourly rate of pay, piece rate of pay, or both;

''(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the ¾ guarantee described in paragraph (4);

''(iv) the hours actually worked by the worker;

''(v) an itemization of the deductions made from the worker's wages; and

''(vi) if piece rates of pay are used, the units produced daily.

''(G) REPORT ON WAGE PROTECTIONS.—Not later than December 31, 2010, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

''(i) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

''(v) recommendations for future wage protection under this section.

''(H) COMMISSION ON WAGE STANDARDS.—

''(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H–2A program (in this subparagraph referred to as the 'Commission').

''(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

''(I) Four representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

''(II) Four representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

''(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

''(I) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

''(V) recommendations for future wage protection under this section.

''(iv) FINAL REPORT.—Not later than December 31, 2010, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

''(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

''(4) GUARANTEE OF EMPLOYMENT.—

''(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least ¾ of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

''(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has

been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

''(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the '¾ guarantee' described in subparagraph (A).

''(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

''(5) MOTOR VEHICLE SAFETY.—

''(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

''(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H–2A employer that uses or causes to be used any vehicle to transport an H–2A worker within the United States.

''(ii) DEFINED TERM.—In this paragraph, the term 'uses or causes to be used'—

''(I) applies only to transportation provided by an H–2A employer to an H–2A worker, or by a farm labor contractor to an H–2A worker at the request or direction of an H–2A employer; and

''(II) does not apply to—

''(aa) transportation provided, or transportation arrangements made, by an H–2A worker, unless the employer specifically requested or arranged such transportation; or

''(bb) car pooling arrangements made by H–2A workers themselves, using 1 of the workers' own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

''(iii) CLARIFICATION.—Providing a job offer to an H–2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H–2A worker by an H–2A employer, shall not constitute an arrangement of, or participation in, such transportation.

''(iv) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H–2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

''(v) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

''(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

''(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

''(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

''(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

''(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H–2A worker.

''(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

''(iii) EFFECT OF WORKERS' COMPENSATION COVERAGE.—If the employer of any H–2A worker provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

''(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

''(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

''(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

''(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer's application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

''(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218B shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

''SEC. 218B. PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H–2A WORKERS.

''(a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

''(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

''(c) CRITERIA FOR ADMISSIBILITY.—

''(1) IN GENERAL.—An H–2A worker shall be considered admissible to the United States if the alien is otherwise admissible under this section, section 218, and section 218A, and the alien is not ineligible under paragraph (2).

''(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

''(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

''(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

''(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

''(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H–2A status, but may not be granted that status in the United States.

''(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

''(d) PERIOD OF ADMISSION.—

''(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the worksite and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

''(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

''(B) the total period of employment, including such 14-day period, may not exceed 10 months.

''(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

''(e) ABANDONMENT OF EMPLOYMENT.—

''(1) IN GENERAL.—An alien admitted or provided status under section

101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H–2A worker prematurely abandons employment.

''(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

''(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

''(f) REPLACEMENT OF ALIEN.—

''(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker—

''(A) who abandons or prematurely terminates employment; or

''(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

''(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

''(g) IDENTIFICATION DOCUMENT.—

''(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify the alien's identity.

''(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

''(A) The document shall be capable of reliably determining whether—

''(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

''(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

''(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

''(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

''(C) The document shall—

''(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

''(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

''(h) EXTENSION OF STAY OF H–2A ALIENS IN THE UNITED STATES.—

''(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H–2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien's stay and a change in the alien's employment.

''(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

''(A) for a period of more than 10 months; or

''(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

''(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

''(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

''(B) DEFINITION.—For purposes of subparagraph (A), the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

''(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

''(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

''(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

''(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

''(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H–2A worker (including any extensions) is 3 years.

''(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

''(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H–2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H–2A worker unless the alien has remained outside the United States for a continuous period equal to at least ⅓ the duration of the alien's previous period of authorized status as an H–2A worker (including any extensions).

''(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H–2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H–2A worker.

''(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, DAIRY WORKERS, OR HORSE WORKERS.—Notwithstanding any provision of the Emergency Agriculture Relief Act of 2008, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder, goat herder, dairy worker, or horse worker—

''(1) may be admitted for an initial period of 12 months;

''(2) subject to subsection (j)(5), may have such initial period of admission extended for a period of up to 3 years; and

''(3) shall not be subject to the requirements of subsection (h)(5) (relating to periods of absence from the United States).

''(j) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, DAIRY WORKERS, OR HORSE WORKERS.—

''(1) ELIGIBLE ALIEN.—For purposes of this subsection, the term 'eligible alien' means an alien—

''(A) having nonimmigrant status under section 101(a)(15)(H)(ii)(a) based on employment as a sheepherder, goat herder, dairy worker, or horse worker;

''(B) who has maintained such nonimmigrant status in the United States for a cumulative total of 36 months (excluding any period of absence from the United States); and

''(C) who is seeking to receive an immigrant visa under section 203(b)(3)(A)(iii).

''(2) CLASSIFICATION PETITION.—In the case of an eligible alien, the petition under section 204 for classification under section 203(b)(3)(A)(iii) may be filed by—

''(A) the alien's employer on behalf of the eligible alien; or

''(B) the eligible alien.

''(3) NO LABOR CERTIFICATION REQUIRED.—Notwithstanding section 203(b)(3)(C), no determination under section 212(a)(5)(A) is required with respect to an immigrant visa described in paragraph (1)(C) for an eligible alien.

''(4) EFFECT OF PETITION.—The filing of a petition described in paragraph (2) or an application for adjustment of status based on the approval of such a petition shall not constitute evidence of an alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(a).

''(5) EXTENSION OF STAY.—The Secretary shall extend the stay of an eligible alien having a pending or approved classification petition described in paragraph (2) in 1-year increments until a final determination is made on the alien's eligibility for adjustment of status to that of an alien lawfully admitted for permanent residence.

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an eligible alien from seeking adjustment of status in accordance with any other provision of law.

''SEC. 218C. WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT.

''(a) ENFORCEMENT AUTHORITY.—

''(1) INVESTIGATION OF COMPLAINTS.—

''(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

''(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a

complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (G). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

''(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

''(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

''(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

''(iii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 2 years.

''(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's application under section 218(a) or during the period of 30 days preceding such period of employment—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 3 years.

''(F) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of $90,000.

''(G) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218A(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218A(b) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

''(2) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218A.

''(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.—H–2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

''(1) The providing of housing or a housing allowance as required under section 218A(b)(1).

''(2) The reimbursement of transportation as required under section 218A(b)(2).

''(3) The payment of wages required under section 218A(b)(3) when due.

''(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218A(c), compliance with which shall be governed by the provisions of such laws.

''(5) The guarantee of employment required under section 218A(b)(4).

''(6) The motor vehicle safety requirements under section 218A(b)(5).

''(7) The prohibition of discrimination under subsection (d)(2).

''(c) PRIVATE RIGHT OF ACTION.—

''(1) MEDIATION.—Upon the filing of a complaint by an H–2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

''(A) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H–2A workers and agricultural employers without charge to the parties.

''(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other nonbinding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

''(C) AUTHORIZATION.—

''(i) IN GENERAL.—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service $500,000 for each fiscal year to carry out this section.

''(ii) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt.

''(2) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H–2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

''(3) ELECTION.—An H–2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

''(4) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this Act shall be construed to diminish the rights and remedies of an H–2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

''(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

''(6) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

''(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

''(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

''(7) WORKERS' COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

''(A) Notwithstanding any other provision of this section, where a State's workers' compensation law is applicable and coverage is provided for an H–2A worker, the workers' compensation benefits shall be the exclusive remedy for the loss of such worker under this section in the case of bodily injury or death in accordance with such State's workers' compensation law.

''(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

''(i) a recovery under a State workers' compensation law; or

''(ii) rights conferred under a State workers' compensation law.

''(8) TOLLING OF STATUTE OF LIMITATIONS.—If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of an H–2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H–2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

''(9) PRECLUSIVE EFFECT.—Any settlement by an H–2A worker and an H–2A employer or any person reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H–2A employer on behalf of an H–2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(d) DISCRIMINATION PROHIBITED.—

''(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218A or any rule or regulation pertaining to section 218 or 218A, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of section 218 or 218A or any rule or regulation pertaining to either of such sections.

''(2) DISCRIMINATION AGAINST H–2A WORKERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H–2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

''(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H–2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

''(f) ROLE OF ASSOCIATIONS.—

''(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of sections 218 and 218A, as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

''(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that an association member or members participated in or had knowledge, or reason to know of the violation, in which case the penalty shall be invoked against the association member or members as well.

''SEC. 218D. DEFINITIONS.

''For purposes of this section and section 218, 218A, 218B, and 218C:

''(1) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a).

''(2) BONA FIDE UNION.—The term 'bona fide union' means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

''(3) DISPLACE.—The term 'displace', in the case of an application with respect to 1 or more H–2A workers by an employer, means laying off a United States worker from a job for which the H–2A worker or workers is or are sought.

''(4) ELIGIBLE.—The term 'eligible', when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A).

''(5) EMPLOYER.—The term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

''(6) H–2A EMPLOYER.—The term 'H–2A employer' means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

''(7) H–2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

''(8) JOB OPPORTUNITY.—The term 'job opportunity' means a job opening for temporary or seasonal full-time employment at a place in the United States to which United States workers can be referred.

''(9) LAYING OFF.—

''(A) IN GENERAL.—The term 'laying off', with respect to a worker—

''(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218A(b)(4)(D)), or temporary suspension of employment due to weather, markets, or other temporary conditions; but

''(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

''(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

''(10) REGULATORY DROUGHT.—The term 'regulatory drought' means a decision subsequent to the filing of the application under section 218 by an entity not under the control of the employer making such filing which restricts the employer's access to water for irrigation purposes and reduces or limits the employer's ability to produce an agricultural commodity, thereby reducing the need for labor.

''(11) SEASONAL.—Labor is performed on a 'seasonal' basis if—

''(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

''(B) from its nature, it may not be continuous or carried on throughout the year.

''(12) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(13) TEMPORARY.—A worker is employed on a 'temporary' basis where the employment is intended not to exceed 10 months.

''(14) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a national of the United States, an alien lawfully admitted for permanent residence, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).''.

(b) TABLE OF CONTENTS.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 218 and inserting the following:

''Sec. 218. H–2A employer applications.
''Sec. 218A. H–2A worker employment requirements.
''Sec. 218B. Procedure for admission and extension of stay of H–2A workers.
''Sec. 218C. Worker protections and labor standards enforcement.
''Sec. 218D. Definitions.''.

(c) SUNSET.—The amendments made by this section shall be effective during the 5-year period beginning on the date that is 1 year after the date of the enactment of this Act. Any immigration benefit provided pursuant to such amendments shall expire at the end of such 5-year period.

Subtitle C—Miscellaneous Provisions

SEC. 8031. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens pursuant to the amendment made by section 8021(a) and a collection process for such fees from employers. Such fees shall be the only fees chargeable to employers for services provided under such amendment.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on the number of job opportunities indicated in the employer's application under section 218 of the Immigration and Nationality Act, as amended by section 8021, and sufficient to provide for the direct costs of providing services related to an employer's authorization to employ aliens pursuant to the amendment made by section 8021(a), to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment of the fees pursuant to the amendment made by section 8021(a) shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the costs of carrying out sections 218 and 218B of the Immigration and Nationality Act, as amended and added, respectively, by section 8021, and the provisions of this title.

SEC. 8032. RULEMAKING.

(a) REQUIREMENT FOR THE SECRETARY TO CONSULT.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture during the promulgation of all regulations to implement the duties of the Secretary under this title and the amendments made by this title.

(b) REQUIREMENT FOR THE SECRETARY OF STATE TO CONSULT.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this title and the amendments made by this title.

(c) REQUIREMENT FOR THE SECRETARY OF LABOR TO CONSULT.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this title and the amendments made by this title.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under sections 218, 218A, 218B, 218C, and 218D of the Immigration and Nationality Act, as amended or added by section 8021, shall take effect on the effective date of section 8021 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. 8033. REPORTS TO CONGRESS.

(a) ANNUAL REPORT.—Not later than September 30 of each year, the Secretary shall submit a report to Congress that identifies, for the previous year—

(1) the number of job opportunities approved for employment of aliens admitted under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), and the number of workers actually admitted, disaggregated by State and by occupation;

(2) the number of such aliens reported to have abandoned employment pursuant to subsection 218B(e)(2) of such Act;

(3) the number of such aliens who departed the United States within the period specified in subsection 218B(d) of such Act;

(4) the number of aliens who applied for adjustment of status pursuant to section 8011(a); and

(5) the number of such aliens whose status was adjusted under section 8011(a).

(b) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress a report that describes the measures being taken and the progress made in implementing this title.

TITLE IX

TELEWORK ENHANCEMENT ACT OF 2008

SECTION 9001. SHORT TITLE.

This Act may be cited as the ''Telework Enhancement Act of 2008''.

SEC. 9002. DEFINITIONS.

In this Act:

(1) EMPLOYEE.—The term ''employee'' has the meaning given that term by section 2105 of title 5, United States Code.

(2) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term by section 105 of title 5, United States Code.

(3) NONCOMPLIANT.—The term ''noncompliant'' means not conforming to the requirements under this Act.

(4) TELEWORK.—The term ''telework'' means a work arrangement in which an employee regularly performs officially assigned duties at home or other worksites geographically convenient to the residence of the employee during at least 20 percent of each pay period that the employee is performing officially assigned duties.

SEC. 9003. EXECUTIVE AGENCIES TELEWORK REQUIREMENT.

(a) TELEWORK ELIGIBILITY.—Not later than 180 days after the date of enactment of this Act, the head of each executive agency shall—

(1) establish a policy under which eligible employees of the agency may be authorized to telework;

(2) determine the eligibility for all employees of the agency to participate in telework; and

(3) notify all employees of the agency of their eligibility to telework.

(b) PARTICIPATION.—The policy described under subsection (a) shall—

(1) ensure that telework does not diminish employee performance or agency operations;

(2) require a written agreement between an agency manager and an employee authorized to telework in order for that employee to participate in telework;

(3) provide that an employee may not be authorized to telework if the performance of that employee does not comply with the terms of the written agreement between the agency manager and that employee;

(4) except in emergency situations as determined by an agency head, not apply to any employee of the agency whose official duties require daily physical presence for activity with equipment or handling of secure materials; and

(5) determine the use of telework as part of the continuity of operations plans the agency in the event of an emergency.

SEC. 9004. TRAINING AND MONITORING.

The head of each executive agency shall ensure that—

(1) an interactive telework training program is provided to—

(A) employees eligible to participate in the telework program of the agency; and

(B) all managers of teleworkers;

(2) no distinction is made between teleworkers and nonteleworkers for the purposes of performance appraisals; and

(3) when determining what constitutes diminished employee performance, the agency shall consult the established performance management guidelines of the Office of Personnel Management.

SEC. 9005. POLICY AND SUPPORT.

(a) AGENCY CONSULTATION WITH THE OFFICE OF PERSONNEL MANAGEMENT.—Each executive agency shall consult with the Office of Personnel Management in developing telework policies.

(b) GUIDANCE AND CONSULTATION.—The Office of Personnel Management shall—

(1) provide policy and policy guidance for telework in the areas of pay and leave, agency closure, performance management, official worksite, recruitment and retention, and accommodations for employees with disabilities; and

(2) consult with—

(A) the Federal Emergency Management Agency on policy and policy guidance for telework in the areas of continuation of operations and long-term emergencies; and

(B) the General Services Administration on policy and policy guidance for telework in the areas of telework centers, travel, technology, and equipment.

(c) CONTINUITY OF OPERATIONS PLANS.—During any period that an agency is operating under a continuity of operations plan, that plan shall supersede any telework policy.

(d) TELEWORK WEBSITE.—The Office of Personnel Management shall—

(1) maintain a central telework website; and

(2) include on that website related—

(A) telework links;

(B) announcements;

(C) guidance developed by the Office of Personnel Management; and

(D) guidance submitted by the Federal Emergency Management Agency, and the General Services Administration to the Office of Personnel Management not later than 10 business days after the date of submission.

SEC. 9006. TELEWORK MANAGING OFFICER.

(a) IN GENERAL.—

(1) APPOINTMENT.—The head of each executive agency shall appoint an employee of the agency as the Telework Managing Officer. The Telework Managing Officer shall be established within the Office of the Chief Human Capital Officer or a comparable office with similar functions.

(2) TELEWORK COORDINATORS.—

(A) APPROPRIATIONS ACT, 2004.—Section 627 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 99) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''appoint a Telework Managing Officer to be''.

(B) APPROPRIATIONS ACT, 2005.—Section 622 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2919) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''appoint a Telework Managing Officer to be''.

(b) DUTIES.—The Telework Managing Officer shall—

(1) be devoted to policy development and implementation related to agency telework programs;

(2) serve as—

(A) an advisor for agency leadership, including the Chief Human Capital Officer;

(B) a resource for managers and employees; and

(C) a primary agency point of contact for the Office of Personnel Management on telework matters; and

(3) perform other duties as the applicable appointing authority may assign.

SEC. 9007. ANNUAL REPORT TO CONGRESS.

(a) SUBMISSION OF REPORTS.—Not later than 18 months after the date of enactment

of this Act and on an annual basis thereafter, the Director of the Office of Personnel Management shall—

(1) submit a report addressing the telework programs of each executive agency to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Oversight and Government Reform of the House of Representatives; and

(2) transmit a copy of the report to the Comptroller General and the Office of Management and Budget.

(b) CONTENTS.—Each report submitted under this section shall include—

(1) the telework policy, the measures in place to carry out the policy, and an analysis of employee telework participation during the preceding 12-month period provided by each executive agency;

(2) an assessment of the progress of each agency in maximizing telework opportunities for employees of that agency without diminishing employee performance or agency operations;

(3) the definition of telework and telework policies and any modifications to such definitions;

(4) the degree of participation by employees of each agency in teleworking during the period covered by the evaluation, including—

(A) the number and percent of the employees in the agency who are eligible to telework;

(B) the number and percent of employees who engage in telework;

(C) the number and percent of eligible employees in each agency who have declined the opportunity to telework; and

(D) the number of employees who were not authorized, willing, or able to telework and the reason;

(5) the extent to which barriers to maximize telework opportunities have been identified and eliminated; and

(6) best practices in agency telework programs.

SEC. 9008. COMPLIANCE OF EXECUTIVE AGENCIES.

(a) EXECUTIVE AGENCIES.—An executive agency shall be in compliance with this Act if each employee of that agency participating in telework regularly performs officially assigned duties at home or other worksites geographically convenient to the residence of the employee during at least 20 percent of each pay period that the employee is performing officially assigned duties.

(b) AGENCY MANAGER REPORTS.—Not later than 180 days after the establishment of a policy described under section 9003, and annually thereafter, each agency manager shall submit a report to the Chief Human Capital Officer and Telework Managing Officer of that agency that contains a summary of—

(1) efforts to promote telework opportunities for employees supervised by that manager; and

(2) any obstacles which hinder the ability of that manager to promote telework opportunities.

(c) CHIEF HUMAN CAPITAL OFFICER REPORTS.—

(1) IN GENERAL.—Each year the Chief Human Capital Officer of each agency, in consultation with the Telework Managing Officer of that agency, shall submit a report to the Chair and Vice Chair of the Chief Human Capital Offices Council on agency management efforts to promote telework.

(2) REVIEW AND INCLUSION OF RELEVANT INFORMATION.—The Chair and Vice Chair of the Chief Human Capital Offices Council shall—

(A) review the reports submitted under paragraph (1);

(B) include relevant information from the submitted reports in the annual report to Congress required under section 9007(b)(2); and

(C) use that relevant information for other purposes related to the strategic management of human capital.

(d) COMPLIANCE REPORTS.—Not later than 90 days after the date of submission of each report under section 9007, the Office of Management and Budget shall submit a report to Congress that—

(1) identifies and recommends corrective actions and time frames for each executive agency that the Office of Management and Budget determines is noncompliant; and

(2) describes progress of noncompliant executive agencies, justifications of any continuing noncompliance, and any recommendations for corrective actions planned by the Office of Management and Budget or the executive agency to eliminate noncompliance.

SEC. 9009. EXTENSION OF TRAVEL EXPENSES TEST PROGRAMS.

(a) IN GENERAL.—Section 5710 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking ''for a period not to exceed 24 months''; and

(2) in subsection (e), by striking ''7 years'' and inserting ''16 years''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as though enacted as part of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 112 Stat. 2350).

TITLE X

GENERAL PROVISIONS—THIS ACT

AVAILABILITY OF FUNDS

SEC. 10001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

EMERGENCY DESIGNATION

SEC. 10002. Each amount in each title of this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

AVOIDANCE OF U.S. PAYROLL TAX CONTRIBUTIONS

SEC. 10003. None of the funds in this Act may be used by any Federal agency for a contract with any United States corporation which hires United States employees through foreign offshore subsidiaries for purposes of avoiding United States payroll tax contributions for such employees.

EXTENSION OF EB–5 REGIONAL CENTER PILOT PROGRAM

SEC. 10004. Section 610(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note) is amended by striking ''for 15 years'' and inserting ''for 20 years''.

INTERIM RELIEF FOR SKILLED IMMIGRANT WORKERS

SEC. 10005. (a) RECAPTURE OF UNUSED EMPLOYMENT-BASED VISA NUMBERS.—Subsection (d) of section 106 of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note) is amended—

(1) in paragraph (1)—

(A) by inserting ''1994, 1996, 1997, 1998,'' after ''available in fiscal year'';

(B) by striking ''or 2004'' and inserting ''2004, or 2006''; and

(C) by striking ''shall be available'' and all that follows through the end and inserting ''shall be available only to—

''(A) an employment-based immigrant under paragraph (1), (2), (3)(A)(i), or (3)(A)(ii) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)), except for employment-based immigrants whose petitions are or have been approved based on Schedule A, Group I as defined in section 656.5 of title 20, Code of Federal Regulations; or

''(B) a spouse or child accompanying or following to join such an employment-based immigrant under section 203(d) of such Act (8 U.S.C. 1153(d)).'';

(2) in paragraph (2)—

(A) in subparagraph (A), by striking ''years 1999 through 2004'' and inserting ''year 1994 and each subsequent fiscal year''; and

(B) in subparagraph (B)—

(i) in clause (i), by striking ''(i)''; and

(ii) by striking clause (ii); and

(3) by adding at the end the following new paragraph:

''(4) EMPLOYMENT-BASED VISA RECAPTURE FEE.—A fee shall be paid in connection with any petition seeking an employment-based immigrant visa number recaptured under paragraph (1), known as the Employment-Based Visa Recapture Fee, in the amount of $1500. Such Fee may not be charged for a dependent accompanying or following to join such employment-based immigrant.''.

(b) DISPOSITION OF FEES.—

(1) IMMIGRATION EXAMINATION FEE ACCOUNT.—The fees described in paragraph (2) shall be treated as adjudication fees and deposited as offsetting receipts into the Immigration Examinations Fee Account in the Treasury of the United States under section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)).

(2) FEES DESCRIBED.—The fees described in this paragraph are the following:

(A) Any Employment-Based Visa Recapture Fee collected pursuant to paragraph (4) of section 106(d) of the American Competitiveness in the Twenty-first Century Act of 2000, as added by subsection (a)(3).

(B) Any Supplemental Adjustment of Status Application Fee collected pursuant to paragraph (3) of subsection (n) of section 245 of the Immigration and Nationality Act, as added by subsection (c)(1).

(c) RETAINING GREEN CARD APPLICANTS WORKING IN THE UNITED STATES.—

(1) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following:

''(n) ADJUSTMENT OF STATUS FOR EMPLOYMENT-BASED IMMIGRANTS.—

''(1) ELIGIBILITY.—The Secretary of Homeland Security shall provide for the filing of an adjustment application by an alien (and any eligible dependents of such alien) who has an approved or pending petition under subparagraph (E) or (F) of section 204(a)(1), regardless of whether an immigrant visa is immediately available at the time the application is filed.

''(2) VISA AVAILABILITY.—An application filed pursuant to paragraph (1) shall not be approved until an immigrant visa becomes available.

''(3) FEES.—If an application is filed pursuant to paragraph (1) at a time at which a visa is not immediately available, a fee, known as the Supplemental Adjustment of Status Application Fee, in the amount of $1500 shall be paid on behalf of the beneficiary of such petition. Such Fee may not be charged for a dependent accompanying or following to join such beneficiary.''.

(2) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the implementation of subsection (n) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), as added by paragraph (1).

(3) REPEAL.—Unless a law is enacted that repeals this paragraph, the amendments made by paragraph (1) shall be repealed on

the date that is 5 years after the date of the enactment of this Act.

SEC. 10006. NURSING SHORTAGE RELIEF. (a) INCREASING VISA NUMBERS.—Section 106 of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note) is amended by adding at the end the following:

''(e) VISA SHORTAGE RELIEF FOR NURSES AND PHYSICAL THERAPISTS.—

''(1) IN GENERAL.—Subject to paragraph (2), for petitions filed during the period beginning on the date of the enactment of the Emergency Nursing Supply Relief Act and ending on September 30, 2011, for employment-based immigrants (and their family members accompanying or following to join under section 203(d) of the Immigration and Nationality Act (8 U.S.C. 1153(d)), which are or have been approved based on Schedule A, Group I as defined in section 656.5 of title 20, Code of Federal Regulations, as promulgated by the Secretary of Labor, the numerical limitations set forth in sections 201(d) and 202(a) of such Act (8 U.S.C. 1151(d) and 1152(a)) shall not apply.

''(2) LIMITATION ON NUMBER OF VISAS.—The Secretary of State may not issue more than 20,000 immigrant visa numbers in any one fiscal year (plus any available visa numbers under this paragraph not used during the preceding fiscal year) to principal beneficiaries of petitions pursuant to paragraph (1).

''(3) EXPEDITED REVIEW.—The Secretary of Homeland Security shall provide a process for reviewing and acting upon petitions with respect to immigrants described in paragraph (1) not later than 30 days after the date on which a completed petition has been filed.

''(f) FEE FOR USE OF VISAS UNDER SUBSECTION (a).—

''(1) IN GENERAL.—The Secretary of Homeland Security shall impose a fee upon each petitioning employer who uses a visa provided under subsection (e) to provide employment for an alien as a professional nurse, except that—

''(A) such fee shall be in the amount of $1,500 for each such alien nurse (but not for dependents accompanying or following to join who are not professional nurses); and

''(B) no fee shall be imposed for the use of such visas if the employer demonstrates to the Secretary that—

''(i) the employer is a health care facility that is located in a county or parish that received individual and public assistance pursuant to Major Disaster Declaration number 1603 or 1607; or

''(ii) the employer is a health care facility that has been designated as a Health Professional Shortage Area facility by the Secretary of Health and Human Services as defined in section 332 of the Public Health Service Act (42 U.S.C. 254e).

''(2) FEE COLLECTION.—A fee imposed by the Secretary of Homeland Security pursuant to paragraph (1) shall be collected by the Secretary as a condition of approval of an application for adjustment of status by the beneficiary of a petition or by the Secretary of State as a condition of issuance of a visa to such beneficiary.''.

(b) CAPITATION GRANTS TO INCREASE THE NUMBER OF NURSING FACULTY AND STUDENTS; DOMESTIC NURSING ENHANCEMENT ACCOUNT.—Part D of title VIII of the Public Health Service Act (42 U.S.C. 296p et seq.) is amended by adding at the end the following:

''SEC. 832. CAPITATION GRANTS.

''(a) IN GENERAL.—For the purpose described in subsection (b), the Secretary, acting through the Health Resources and Services Administration, shall award a grant each fiscal year in an amount determined in accordance with subsection (c) to each eligible school of nursing that submits an application in accordance with this section.

''(b) PURPOSE.—A funding agreement for a grant under this section is that the eligible school of nursing involved will expend the grant to increase the number of nursing faculty and students at the school, including by hiring new faculty, retaining current faculty, purchasing educational equipment and audiovisual laboratories, enhancing clinical laboratories, repairing and expanding infrastructure, or recruiting students.

''(c) GRANT COMPUTATION.—

''(1) AMOUNT PER STUDENT.—Subject to paragraph (2), the amount of a grant to an eligible school of nursing under this section for a fiscal year shall be the total of the following:

''(A) $1,800 for each full-time or part-time student who is enrolled at the school in a graduate program in nursing that—

''(i) leads to a master's degree, a doctoral degree, or an equivalent degree; and

''(ii) prepares individuals to serve as faculty through additional course work in education and ensuring competency in an advanced practice area.

''(B) $1,405 for each full-time or part-time student who—

''(i) is enrolled at the school in a program in nursing leading to a bachelor of science degree, a bachelor of nursing degree, a graduate degree in nursing if such program does not meet the requirements of subparagraph (A), or an equivalent degree; and

''(ii) has not more than 3 years of academic credits remaining in the program.

''(C) $966 for each full-time or part-time student who is enrolled at the school in a program in nursing leading to an associate degree in nursing or an equivalent degree.

''(2) LIMITATION.—In calculating the amount of a grant to a school under paragraph (1), the Secretary may not make a payment with respect to a particular student—

''(A) for more than 2 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a master's degree or an equivalent degree;

''(B) for more than 4 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a doctoral degree or an equivalent degree;

''(C) for more than 3 fiscal years in the case of a student described in paragraph (1)(B); or

''(D) for more than 2 fiscal years in the case of a student described in paragraph (1)(C).

''(d) ELIGIBILITY.—In this section, the term 'eligible school of nursing' means a school of nursing that—

''(1) is accredited by a nursing accrediting agency recognized by the Secretary of Education;

''(2) has a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent for each of the 3 academic years preceding submission of the grant application; and

''(3) has a graduation rate (based on the number of students in a class who graduate relative to, for a baccalaureate program, the number of students who were enrolled in the class at the beginning of junior year or, for an associate degree program, the number of students who were enrolled in the class at the end of the first year) of not less than 80 percent for each of the 3 academic years preceding submission of the grant application.

''(e) REQUIREMENTS.—The Secretary may award a grant under this section to an eligible school of nursing only if the school gives assurances satisfactory to the Secretary that, for each academic year for which the grant is awarded, the school will comply with the following:

''(1) The school will maintain a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent.

''(2) The school will maintain a graduation rate (as described in subsection (d)(3)) of not less than 80 percent.

''(3)(A) Subject to subparagraphs (B) and (C), the first-year enrollment of full-time nursing students in the school will exceed such enrollment for the preceding academic year by 5 percent or 5 students, whichever is greater.

''(B) Subparagraph (A) shall not apply to the first academic year for which a school receives a grant under this section.

''(C) With respect to any academic year, the Secretary may waive application of subparagraph (A) if—

''(i) the physical facilities at the school involved limit the school from enrolling additional students; or

''(ii) the school has increased enrollment in the school (as described in subparagraph (A)) for each of the 2 preceding academic years.

''(4) Not later than 1 year after receiving a grant under this section, the school will formulate and implement a plan to accomplish at least 2 of the following:

''(A) Establishing or significantly expanding an accelerated baccalaureate degree nursing program designed to graduate new nurses in 12 to 18 months.

''(B) Establishing cooperative intradisciplinary education among schools of nursing with a view toward shared use of technological resources, including information technology.

''(C) Establishing cooperative interdisciplinary training between schools of nursing and schools of allied health, medicine, dentistry, osteopathy, optometry, podiatry, pharmacy, public health, or veterinary medicine, including training for the use of the interdisciplinary team approach to the delivery of health services.

''(D) Integrating core competencies on evidence-based practice, quality improvements, and patient-centered care.

''(E) Increasing admissions, enrollment, and retention of qualified individuals who are financially disadvantaged.

''(F) Increasing enrollment of minority and diverse student populations.

''(G) Increasing enrollment of new graduate baccalaureate nursing students in graduate programs that educate nurse faculty members.

''(H) Developing post-baccalaureate residency programs to prepare nurses for practice in specialty areas where nursing shortages are most severe.

''(I) Increasing integration of geriatric content into the core curriculum.

''(J) Partnering with economically disadvantaged communities to provide nursing education.

''(K) Expanding the ability of nurse managed health centers to provide clinical education training sites to nursing students.

''(5) The school will submit an annual report to the Secretary that includes updated information on the school with respect to student enrollment, student retention, graduation rates, passage rates on the National Council Licensure Examination for Registered Nurses, the number of graduates employed as nursing faculty or nursing care providers within 12 months of graduation, and the number of students who are accepted into graduate programs for further nursing education.

''(6) The school will allow the Secretary to make on-site inspections, and will comply

with the Secretary's requests for information, to determine the extent to which the school is complying with the requirements of this section.

''(f) REPORTS TO CONGRESS.—The Secretary shall evaluate the results of grants under this section and submit to Congress—

''(1) not later than 18 months after the date of the enactment of this section, an interim report on such results; and

''(2) not later than September 30, 2010, a final report on such results.

''(g) APPLICATION.—An eligible school of nursing seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

''(h) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts in the Domestic Nursing Enhancement Account, established under section 833, there are authorized to be appropriated such sums as may be necessary to carry out this section.

''SEC. 833. DOMESTIC NURSING ENHANCEMENT ACCOUNT.

''(a) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account which shall be known as the 'Domestic Nursing Enhancement Account.' Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under section 106(f) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note). Nothing in this subsection shall prohibit the depositing of other moneys into the account established under this section.

''(b) USE OF FUNDS.—Amounts collected under section 106(f) of the American Competitiveness in the Twenty-first Century Act of 2000, and deposited into the account established under subsection (a) shall be used by the Secretary of Health and Human Services to carry out section 832. Such amounts shall be available for obligation only to the extent, and in the amount, provided in advance in appropriations Acts. Such amounts are authorized to remain available until expended.''.

(c) GLOBAL HEALTH CARE COOPERATION.—

(1) IN GENERAL.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended by inserting after section 317 the following:

''SEC. 317A. TEMPORARY ABSENCE OF ALIENS PROVIDING HEALTH CARE IN DEVELOPING COUNTRIES.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary of Homeland Security shall allow an eligible alien and the spouse or child of such alien to reside in a candidate country during the period that the eligible alien is working as a physician or other health care worker in a candidate country. During such period the eligible alien and such spouse or child shall be considered—

''(1) to be physically present and residing in the United States for purposes of naturalization under section 316(a); and

''(2) to meet the continuous residency requirements under section 316(b).

''(b) DEFINITIONS.—In this section:

''(1) CANDIDATE COUNTRY.—The term 'candidate country' means a country that the Secretary of State determines to be—

''(A) eligible for assistance from the International Development Association, in which the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for the applicable fiscal year, as defined by the International Bank for Reconstruction and Development;

''(B) classified as a lower middle income country in the then most recent edition of the World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development and having an income greater than the historical ceiling for International Development Association eligibility for the applicable fiscal year; or

''(C) qualified to be a candidate country due to special circumstances, including natural disasters or public health emergencies.

''(2) ELIGIBLE ALIEN.—The term 'eligible alien' means an alien who—

''(A) has been lawfully admitted to the United States for permanent residence; and

''(B) is a physician or other healthcare worker.

''(c) CONSULTATION.—The Secretary of Homeland Security shall consult with the Secretary of State in carrying out this section.

''(d) PUBLICATION.—The Secretary of State shall publish—

''(1) not later than 180 days after the date of the enactment of this section, a list of candidate countries;

''(2) an updated version of the list required by paragraph (1) not less often than once each year; and

''(3) an amendment to the list required by paragraph (1) at the time any country qualifies as a candidate country due to special circumstances under subsection (b)(1)(C).''.

(2) RULEMAKING.—

(A) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall promulgate regulations to carry out the amendments made by this subsection.

(B) CONTENT.—The regulations promulgated pursuant to paragraph (1) shall—

(i) permit an eligible alien (as defined in section 317A of the Immigration and Nationality Act, as added by paragraph (1)) and the spouse or child of the eligible alien to reside in a foreign country to work as a physician or other healthcare worker as described in subsection (a) of such section 317A for not less than a 12-month period and not more than a 24-month period, and shall permit the Secretary to extend such period for an additional period not to exceed 12 months, if the Secretary determines that such country has a continuing need for such a physician or other healthcare worker;

(ii) provide for the issuance of documents by the Secretary to such eligible alien, and such spouse or child, if appropriate, to demonstrate that such eligible alien, and such spouse or child, if appropriate, is authorized to reside in such country under such section 317A; and

(iii) provide for an expedited process through which the Secretary shall review applications for such an eligible alien to reside in a foreign country pursuant to subsection (a) of such section 317A if the Secretary of State determines a country is a candidate country pursuant to subsection (b)(1)(C) of such section 317A.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) DEFINITION.—Section 101(a)(13)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)(C)(ii)) is amended by adding at the end the following: ''except in the case of an eligible alien, or the spouse or child of such alien, who is authorized to be absent from the United States under section 317A,''.

(B) DOCUMENTARY REQUIREMENTS.—Section 211(b) of such Act (8 U.S.C. 1181(b)) is amended by inserting '', including an eligible alien authorized to reside in a foreign country under section 317A and the spouse or child of such eligible alien, if appropriate,'' after ''1101(a)(27)(A),''.

(C) INELIGIBLE ALIENS.—Section 212(a)(7)(A)(i)(I) of such Act (8 U.S.C. 1182(a)(7)(A)(i)(I)) is amended by inserting ''other than an eligible alien authorized to reside in a foreign country under section 317A and the spouse or child of such eligible alien, if appropriate,'' after ''Act,''.

(D) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 317 the following:

''Sec. 317A. Temporary absence of aliens providing health care in developing countries.''.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to U.S. Citizenship and Immigration Services such sums as may be necessary to carry out this subsection and the amendments made by this subsection.

(d) ATTESTATION BY HEALTH CARE WORKERS.—

(1) ATTESTATION REQUIREMENT.—Section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)) is amended by adding at the end the following:

''(E) HEALTH CARE WORKERS WITH OTHER OBLIGATIONS.—

''(i) IN GENERAL.—An alien who seeks to enter the United States for the purpose of performing labor as a physician or other health care worker is inadmissible unless the alien submits to the Secretary of Homeland Security or the Secretary of State, as appropriate, an attestation that the alien is not seeking to enter the United States for such purpose during any period in which the alien has an outstanding obligation to the government of the alien's country of origin or the alien's country of residence.

''(ii) OBLIGATION DEFINED.—In this subparagraph, the term 'obligation' means an obligation incurred as part of a valid, voluntary individual agreement in which the alien received financial assistance to defray the costs of education or training to qualify as a physician or other health care worker in consideration for a commitment to work as a physician or other health care worker in the alien's country of origin or the alien's country of residence.

''(iii) WAIVER.—The Secretary of Homeland Security may waive a finding of inadmissibility under clause (i) if the Secretary determines that—

''(I) the obligation was incurred by coercion or other improper means;

''(II) the alien and the government of the country to which the alien has an outstanding obligation have reached a valid, voluntary agreement, pursuant to which the alien's obligation has been deemed satisfied, or the alien has shown to the satisfaction of the Secretary that the alien has been unable to reach such an agreement because of coercion or other improper means; or

''(III) the obligation should not be enforced due to other extraordinary circumstances, including undue hardship that would be suffered by the alien in the absence of a waiver.''.

(2) EFFECTIVE DATE; APPLICATION.—

(A) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(B) APPLICATION BY THE SECRETARY.—Not later than the effective date described in subparagraph (A), the Secretary of Homeland Security shall begin to carry out subparagraph (E) of section 212(a)(5) of the Immigration and Nationality Act, as added by paragraph (1), including the requirement for the attestation and the granting of a waiver described in clause (iii) of such subparagraph (E), regardless of whether regulations to implement such subparagraph have been promulgated.

SEC. 10007. NURSE TRAINING AND RETENTION DEMONSTRATION GRANTS. (a) FINDINGS.—Congress makes the following findings:

(1) America's healthcare system depends on an adequate supply of trained nurses to deliver quality patient care.

(2) Over the next 15 years, this shortage is expected to grow significantly. The Health Resources and Services Administration has projected that by 2020, there will be a shortage of nurses in every State and that overall only 64 percent of the demand for nurses will be satisfied, with a shortage of 1,016,900 nurses nationally.

(3) To avert such a shortage, today's network of healthcare workers should have access to education and support from their employers to participate in educational and training opportunities.

(4) With the appropriate education and support, incumbent healthcare workers and incumbent bedside nurses are untapped sources which can meet these needs and address the nursing shortage and provide quality care as the American population ages.

(b) PURPOSES OF GRANT PROGRAM.—It is the purpose of this section to authorize grants to—

(1) address the projected shortage of nurses by funding comprehensive programs to create a career ladder to nursing (including Certified Nurse Assistants, Licensed Practical Nurses, Licensed Vocational Nurses, and Registered Nurses) for incumbent ancillary healthcare workers;

(2) increase the capacity for educating nurses by increasing both nurse faculty and clinical opportunities through collaborative programs between staff nurse organizations, healthcare providers, and accredited schools of nursing; and

(3) provide training programs through education and training organizations jointly administered by healthcare providers and healthcare labor organizations or other organizations representing staff nurses and frontline healthcare workers, working in collaboration with accredited schools of nursing and academic institutions.

(c) GRANTS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Labor (referred to in this section as the ''Secretary'') shall establish a partnership grant program to award grants to eligible entities to carry out comprehensive programs to provide education to nurses and create a pipeline to nursing for incumbent ancillary healthcare workers who wish to advance their careers, and to otherwise carry out the purposes of this section.

(d) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section an entity shall—

(1) be—

(A) a healthcare entity that is jointly administered by a healthcare employer and a labor union representing the healthcare employees of the employer and that carries out activities using labor management training funds as provided for under section 302 of the Labor-Management Relations Act, 1947 (18 U.S.C. 186(c)(6));

(B) an entity that operates a training program that is jointly administered by—

(i) one or more healthcare providers or facilities, or a trade association of healthcare providers; and

(ii) one or more organizations which represent the interests of direct care healthcare workers or staff nurses and in which the direct care healthcare workers or staff nurses have direct input as to the leadership of the organization; or

(C) a State training partnership program that consists of non-profit organizations that include equal participation from industry, including public or private employers, and labor organizations including joint labor-management training programs, and which may include representatives from local governments, worker investment agency one-stop career centers, community based organizations, community colleges, and accredited schools of nursing; and

(2) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(e) ADDITIONAL REQUIREMENTS FOR HEALTHCARE EMPLOYER DESCRIBED IN SUBSECTION (d).—To be eligible for a grant under this section, a healthcare employer described in subsection (d) shall demonstrate—

(1) an established program within their facility to encourage the retention of existing nurses;

(2) it provides wages and benefits to its nurses that are competitive for its market or that have been collectively bargained with a labor organization; and

(3) support for programs funded under this section through 1 or more of the following:

(A) The provision of paid leave time and continued health coverage to incumbent healthcare workers to allow their participation in nursing career ladder programs, including Certified Nurse Assistants, Licensed Practical Nurses, Licensed Vocational Nurses, and Registered Nurses.

(B) Contributions to a joint labor-management or other jointly administered training fund which administers the program involved.

(C) The provision of paid release time, incentive compensation, or continued health coverage to staff nurses who desire to work full- or part-time in a faculty position.

(D) The provision of paid release time for staff nurses to enable them to obtain a bachelor of science in nursing degree, other advanced nursing degrees, specialty training, or certification program.

(E) The payment of tuition assistance to incumbent healthcare workers.

(f) OTHER REQUIREMENTS.—

(1) MATCHING REQUIREMENT.—

(A) IN GENERAL.—The Secretary may not make a grant under this section unless the applicant involved agrees, with respect to the costs to be incurred by the applicant in carrying out the program under the grant, to make available non-Federal contributions (in cash or in kind under subparagraph (B)) toward such costs in an amount equal to not less than $1 for each $1 of Federal funds provided in the grant. Such contributions may be made directly or through donations from public or private entities, or may be provided through the cash equivalent of paid release time provided to incumbent worker students.

(B) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required in subparagraph (A) may be in cash or in kind (including paid release time), fairly evaluated, including equipment or services (and excluding indirect or overhead costs).

(C) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall supplement, and not supplant, resources dedicated by an entity, or other Federal, State, or local funds available to carry out activities described in this section.

(2) REQUIRED COLLABORATION.—Entities carrying out or overseeing programs carried out with assistance provided under this section shall demonstrate collaboration with accredited schools of nursing which may include community colleges and other academic institutions providing associate, bachelor's, or advanced nursing degree programs or specialty training or certification programs.

(g) ACTIVITIES.—Amounts awarded to an entity under a grant under this section shall be used for the following:

(1) To carry out programs that provide education and training to establish nursing career ladders to educate incumbent healthcare workers to become nurses (including Certified Nurse Assistants, Licensed Practical Nurses, Licensed Vocational Nurses, and Registered Nurses). Such programs shall include one or more of the following:

(A) Preparing incumbent workers to return to the classroom through English as a second language education, GED education, precollege counseling, college preparation classes, and support with entry level college classes that are a prerequisite to nursing.

(B) Providing tuition assistance with preference for dedicated cohort classes in community colleges, universities, accredited schools of nursing with supportive services including tutoring and counseling.

(C) Providing assistance in preparing for and meeting all nursing licensure tests and requirements.

(D) Carrying out orientation and mentorship programs that assist newly graduated nurses in adjusting to working at the bedside to ensure their retention post graduation, and ongoing programs to support nurse retention.

(E) Providing stipends for release time and continued healthcare coverage to enable incumbent healthcare workers to participate in these programs.

(2) To carry out programs that assist nurses in obtaining advanced degrees and completing specialty training or certification programs and to establish incentives for nurses to assume nurse faculty positions on a part-time or full-time basis. Such programs shall include one or more of the following:

(A) Increasing the pool of nurses with advanced degrees who are interested in teaching by funding programs that enable incumbent nurses to return to school.

(B) Establishing incentives for advanced degree bedside nurses who wish to teach in nursing programs so they can obtain a leave from their bedside position to assume a full- or part-time position as adjunct or full time faculty without the loss of salary or benefits.

(C) Collaboration with accredited schools of nursing which may include community colleges and other academic institutions providing associate, bachelor's, or advanced nursing degree programs, or specialty training or certification programs, for nurses to carry out innovative nursing programs which meet the needs of bedside nursing and healthcare providers.

(h) PREFERENCE.—In awarding grants under this section the Secretary shall give preference to programs that—

(1) provide for improving nurse retention;

(2) provide for improving the diversity of the new nurse graduates to reflect changes in the demographics of the patient population;

(3) provide for improving the quality of nursing education to improve patient care and safety;

(4) have demonstrated success in upgrading incumbent healthcare workers to become nurses or which have established effective programs or pilots to increase nurse faculty; or

(5) are modeled after or affiliated with such programs described in paragraph (4).

(i) EVALUATION.—

(1) PROGRAM EVALUATIONS.—An entity that receives a grant under this section shall annually evaluate, and submit to the Secretary a report on, the activities carried out under the grant and the outcomes of such activities. Such outcomes may include—

(A) an increased number of incumbent workers entering an accredited school of nursing and in the pipeline for nursing programs;

(B) an increasing number of graduating nurses and improved nurse graduation and licensure rates;

(C) improved nurse retention;

(D) an increase in the number of staff nurses at the healthcare facility involved;

(E) an increase in the number of nurses with advanced degrees in nursing;

(F) an increase in the number of nurse faculty;

(G) improved measures of patient quality as determined by the Secretary; and

(H) an increase in the diversity of new nurse graduates relative to the patient population.

(2) GENERAL REPORT.—Not later than September 30, 2011, the Secretary of Labor shall, using data and information from the reports received under paragraph (1), submit to Congress a report concerning the overall effectiveness of the grant program carried out under this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section for fiscal years 2010, 2011, and 2012, such sums as may be necessary. Funds appropriated under this subsection shall remain available until expended without fiscal year limitation.

EXPLANATORY STATEMENT

SEC. 10008. The explanatory statement printed in the Senate section of the Congressional Record on May 19, 2008, submitted by the Chairman of the Committee on Appropriations of the Senate regarding the amendments of the Senate to the House amendments to the Senate amendment to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes, submitted by the Chairman of the Committee on Appropriations of the Senate, shall have the same effect with respect to the allocation of funds and implementation of titles I through XIII of this Act as if it were a report to the Senate on a bill reported by the Committee on Appropriations.

SHORT TITLE

SEC. 10009. This Act may be cited as the ''Supplemental Appropriations Act, 2008''.

SA 4790. Mr. REID proposed an amendment to amendment SA 4789 proposed by Mr. REID to the House amendment numbered 2 to the amendment of the Senate to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; as follows:

Strike all after the word ''TITLE'' on page 2, line 1 and insert the following:

I

OTHER SECURITY, MILITARY CONSTRUCTION, AND INTERNATIONAL MATTERS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

For an additional amount for ''Public Law 480 Title II Grants'', $850,000,000, to remain available until expended.

For an additional amount for ''Public Law 480 Title II Grants'', $395,000,000, to become available on October 1, 2008, and to remain available until expended.

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For an additional amount for the Office of the Inspector General, $4,000,000, to remain available until September 30, 2009.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for ''Salaries and Expenses, General Legal Activities'', $1,648,000, to remain available until September 30, 2009.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for ''Salaries and Expenses, United States Attorneys'', $5,000,000, to remain available until September 30, 2009.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $18,621,000, to remain available until September 30, 2009.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $164,965,000, to remain available until September 30, 2009.

For an additional amount for ''Salaries and Expenses'', $82,600,000 to become available on October 1, 2008 and to remain available until September 30, 2009.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $22,666,000, to remain available until September 30, 2009.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $4,000,000, to remain available until September 30, 2009.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $9,100,000, to remain available until September 30, 2009.

CHAPTER 3

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

For an additional amount for ''Military Construction, Army'', $1,170,200,000: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds made available under this heading, $1,033,000,000 shall remain available until September 30, 2009, and $137,200,000 shall remain available until September 30, 2012: *Provided further*, That funds made available under this heading for military construction projects in Iraq shall not be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that none of the funds are to be used for the purpose of providing facilities for the permanent basing of U.S. military personnel in Iraq.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for ''Military Construction, Navy and Marine Corps'', $300,084,000: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds made available under this heading, $270,785,000 shall remain available until September 30, 2009, and $29,299,000 shall remain available until September 30, 2012.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for ''Military Construction, Air Force'', $361,900,000: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds made available under this heading, $324,300,000 shall remain available until September 30, 2009, and $37,600,000 shall remain available until September 30, 2012: *Provided further*, That funds made available under this heading for military construction projects in Iraq shall not be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that none of the funds are to be used for the purpose of providing facilities for the permanent basing of U.S. military personnel in Iraq.

MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for ''Military Construction, Defense-Wide'', $27,600,000, to remain available until September 30, 2009: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for ''Family Housing Construction, Navy and Marine Corps'', $11,766,000, to remain available until September 30, 2012: *Provided*, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $1,202,886,000, to remain available until expended.

DEPARTMENT OF VETERANS AFFAIRS

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for ''General Operating Expenses'', $100,000,000, to remain available until expended.

INFORMATION TECHNOLOGY SYSTEMS

For an additional amount for ''Information Technology Systems'', $20,000,000, to remain available until expended.

CONSTRUCTION, MAJOR PROJECTS

For an additional amount for ''Construction, Major Projects'', $437,100,000, to remain available until expended, which shall be for acceleration and completion of planned major construction of Level I polytrauma rehabilitation centers as identified in the Department of Veterans Affairs' Five Year Capital Plan: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and major medical facility construction not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act the Secretary shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1301. In addition to amounts otherwise appropriated or made available under the heading ''Military Construction, Army'', there is hereby appropriated an additional

$70,600,000, to remain available until September 30, 2012, for the acceleration and completion of child development center construction as proposed in the fiscal year 2009 budget request for the Department of the Army: *Provided,* That such funds may be obligated and expended to carry out planning and design and military construction not otherwise authorized by law.

SEC. 1302. In addition to amounts otherwise appropriated or made available under the heading ''Military Construction, Navy and Marine Corps'', there is hereby appropriated an additional $89,820,000, to remain available until September 30, 2012, for the acceleration and completion of child development and youth center construction as proposed in the fiscal year 2009 budget request for the Department of the Navy: *Provided,* That such funds may be obligated and expended to carry out planning and design and military construction not otherwise authorized by law.

SEC. 1303. In addition to amounts otherwise appropriated or made available under the heading ''Military Construction, Air Force'', there is hereby appropriated an additional $8,100,000, to remain available until September 30, 2012, for the acceleration and completion of child development center construction as proposed in the fiscal year 2009 budget request for the Department of the Air Force: *Provided,* That such funds may be obligated and expended to carry out planning and design and military construction not otherwise authorized by law.

SEC. 1304. In addition to amounts otherwise appropriated or made available under the heading ''Military Construction, Army'', there is hereby appropriated an additional $200,000,000, to remain available until September 30, 2012, to accelerate barracks improvements at Department of the Army installations: *Provided,* That such funds may be obligated and expended to carry out planning and design and barracks construction not otherwise authorized by law: *Provided further,* That within 30 days of enactment of this Act the Secretary shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for barracks construction prior to obligation.

SEC. 1305. COLLECTION OF CERTAIN INDEBTEDNESS OF MEMBERS OF THE ARMED FORCES AND VETERANS WHO DIE OF INJURY INCURRED OR AGGRAVATED IN SERVICE IN THE LINE OF DUTY IN A COMBAT ZONE. (a) LIMITATION ON AUTHORITY.—

(1) IN GENERAL.—Chapter 53 of title 38, United States Code, is amended by inserting after section 5302 the following new section:

''§ 5302A. Collection of indebtedness: certain debts of members of the Armed Forces and veterans who die of injury incurred or aggravated in the line of duty in a combat zone

''(a) LIMITATION ON AUTHORITY.—The Secretary may not collect all or any part of an amount owed to the United States by a member of the Armed Forces or veteran described in subsection (b) under any program under the laws administered by the Secretary, other than a program referred to in subsection (c), if the Secretary determines that termination of collection is in the best interest of the United States.

''(b) COVERED INDIVIDUALS.—A member of the Armed Forces or veteran described in this subsection is any member or veteran who dies as a result of an injury incurred or aggravated in the line of duty while serving in a theater of combat operations (as determined by the Secretary in consultation with the Secretary of Defense) in a war or in combat against a hostile force during a period of hostilities (as that term is defined in section 1712A(a)(2)(B) of this title) after September 11, 2001.

''(c) INAPPLICABILITY TO HOUSING AND SMALL BUSINESS BENEFIT PROGRAMS.—The limitation on authority in subsection (a) shall not apply to any amounts owed the United States under any program carried out under chapter 37 of this title.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 53 of such title is amended by inserting after the item relating to section 5302 the following new item:

''5302A. Collection of indebtedness: certain debts of members of the Armed Forces and veterans who die of injury incurred or aggravated in the line of duty in a combat zone.''.

(b) EQUITABLE REFUND.—In any case where all or any part of an indebtedness of a covered individual, as described in section 5302A(a) of title 38, United States Code, as added by subsection (a)(1), was collected after September 11, 2001, and before the date of the enactment of this Act, and the Secretary of Veterans Affairs determines that such indebtedness would have been terminated had such section been in effect at such time, the Secretary may refund the amount so collected if the Secretary determines that the individual is equitably entitled to such refund.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to collections of indebtedness of members of the Armed Forces and veterans who die on or after September 11, 2001.

(d) SHORT TITLE.—This section may be cited as the ''Combat Veterans Debt Elimination Act of 2008''.

CHAPTER 4

SUBCHAPTER A—SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2008

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for ''Diplomatic and Consular Programs'', $1,413,700,000, to remain available until September 30, 2009, of which $212,400,000 for worldwide security protection is available until expended: *Provided,* That not more than $1,095,000,000 of the funds appropriated under this heading shall be available for diplomatic operations in Iraq: *Provided further,* That of the funds appropriated under this heading, not more than $30,000,000 shall be made available to establish and implement a coordinated civilian response capacity at the United States Department of State: *Provided further*, That of the funds appropriated under this heading, up to $5,000,000 shall be made available to establish a United States Consulate in Lhasa, Tibet: *Provided further*, That the Department of State shall not consent to the opening of a consular post in the United States by the People's Republic of China until such time as a United States Consulate in Lhasa, Tibet is established.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of Inspector General'', $12,500,000, to remain available until September 30, 2009: *Provided,* That $2,500,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight, and up to $5,000,000 may be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For an additional amount for ''Educational and Cultural Exchange Programs'', $10,000,000, to remain available until September 30, 2009, of which $5,000,000 shall be for programs and activities in Africa, and $5,000,000 shall be for programs and activities in the Western Hemisphere.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for ''Embassy Security, Construction, and Maintenance'', $76,700,000, to remain available until expended, for facilities in Afghanistan.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for ''Contributions to International Organizations'', $66,000,000, to remain available until September 30, 2009.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for ''Contributions for International Peacekeeping Activities'', $383,600,000, to remain available until September 30, 2009, of which $333,600,000 shall be made available for the United Nations-African Union Hybrid Mission in Darfur.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for ''International Broadcasting Operations'', $3,000,000, to remain available until September 30, 2009.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for ''International Disaster Assistance'', $240,000,000, to remain available until expended.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for ''Operating Expenses of the United States Agency for International Development'', $149,500,000, to remain available until September 30, 2009: *Provided,* That of the funds appropriated under this heading, not more than $25,000,000 shall be made available to establish and implement a coordinated civilian response capacity at the United States Agency for International Development.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Operating Expenses of the United States Agency for International Development Office of Inspector General'', $4,000,000, to remain available until September 30, 2009.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For an additional amount for ''Economic Support Fund'', $1,962,500,000, to remain available until September 30, 2009, of which not more than $398,000,000 may be made available for assistance for Iraq, $150,000,000 shall be made available for assistance for Jordan to meet the needs of Iraqi refugees, and up to $53,000,000 may be made available for energy-related assistance for North Korea, notwithstanding any other provision of law: *Provided,* That not more than $200,000,000 of the funds appropriated under this heading in this subchapter shall be made available for assistance for the West Bank: *Provided further,* That funds made available pursuant to the previous proviso shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That the funds made available under this heading for energy-related assistance for North Korea may be made

available to support the goals of the Six Party Talks Agreements after the Secretary of State determines and reports to the Committees on Appropriations that North Korea is continuing to fulfill its commitments under such agreements.

DEPARTMENT OF STATE

DEMOCRACY FUND

For an additional amount for ''Democracy Fund'', $76,000,000, to remain available until September 30, 2009, of which $75,000,000 shall be for democracy programs in Iraq and $1,000,000 shall be for democracy programs in Chad.

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for ''International Narcotics Control and Law Enforcement'', $520,000,000, to remain available until September 30, 2009, of which not more than $25,000,000 shall be made available for security assistance for the West Bank: *Provided,* That of the funds appropriated under this heading, $1,000,000 shall be made available for the Office of the United Nations High Commissioner for Human Rights in Mexico.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for ''Migration and Refugee Assistance'', $330,500,000, to remain available until expended.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For an additional amount for ''United States Emergency Refugee and Migration Assistance Fund'', $36,608,000, to remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for ''Nonproliferation, Anti-Terrorism, Demining and Related Programs'', $10,000,000, to remain available until September 30, 2009.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

PEACEKEEPING OPERATIONS

For an additional amount for ''Peacekeeping Operations'', $10,000,000, to remain available until September 30, 2009.

SUBCHAPTER B—BRIDGE FUND APPROPRIATIONS FOR FISCAL YEAR 2009

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for ''Diplomatic and Consular Programs'', $652,400,000, which shall become available on October 1, 2008 and remain available through September 30, 2009: *Provided,* That of the funds appropriated under this heading, $78,400,000 is for worldwide security protection and shall remain available until expended: *Provided further,* That not more than $500,000,000 of the funds appropriated under this heading shall be available for diplomatic operations in Iraq.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of Inspector General'', $57,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009: *Provided,* That $36,500,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight and up to $5,000,000 shall be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for ''Embassy Security, Construction, and Maintenance'', $41,300,000, which shall become available on October 1, 2008 and remain available until expended, for facilities in Afghanistan.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for ''Contributions to International Organizations'', $75,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for ''Contributions for International Peacekeeping Activities'', $150,500,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for ''International Broadcasting Operations'', $6,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

GLOBAL HEALTH AND CHILD SURVIVAL

For an additional amount for ''Global Health and Child Survival'', $75,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, for programs to combat avian influenza.

DEVELOPMENT ASSISTANCE

For an additional amount for ''Development Assistance'', $200,000,000, for assistance for developing countries to address the international food crisis notwithstanding any other provision of law, which shall become available on October 1, 2008 and remain available through September 30, 2010: *Provided,* That such assistance should be carried out consistent with the purposes of section 103(a)(1) of the Foreign Assistance Act of 1961: *Provided further,* That not more than $50,000,000 should be made available for local or regional purchase and distribution of food: *Provided further,* That the Secretary of State shall submit to the Committees on Appropriations not later than 45 days after enactment of this Act, and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of such funds to alleviate hunger and malnutrition, including a list of those countries facing significant food shortages.

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for ''International Disaster Assistance'', $200,000,000, which shall become available on October 1, 2008 and remain available until expended.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for ''Operating Expenses of the United States Agency for International Development'', $93,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Operating Expenses of the United States Agency for International Development Office of Inspector General'', $1,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For an additional amount for ''Economic Support Fund'', $1,132,300,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, of which not more than $110,000,000 may be made available for assistance for Iraq, $100,000,000 shall be made available for assistance for Jordan, not more than $455,000,000 may be made available for assistance for Afghanistan, not more than $150,000,000 may be made available for assistance for Pakistan, not more than $150,000,000 shall be made available for assistance for the West Bank, and $15,000,000 may be made available for energy-related assistance for North Korea, notwithstanding any other provision of law.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for ''International Narcotics Control and Law Enforcement'', $151,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, of which not more than $50,000,000 shall be made available for security assistance for the West Bank.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for ''Migration and Refugee Assistance'', $350,000,000, which shall become available on October 1, 2008 and remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for ''Nonproliferation, Anti-Terrorism, Demining and Related Programs'', $4,500,000, for humanitarian demining assistance for Iraq, which shall become available on October 1, 2008 and remain available through September 30, 2009.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for ''Foreign Military Financing Program'', $145,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, of which $100,000,000 shall be made available for assistance for Jordan: *Provided,* That section 3802(c) of title III, chapter 8 of Public of Law 110–28 shall apply to funds made available under this heading for assistance for Lebanon.

PEACEKEEPING OPERATIONS

For an additional amount for ''Peacekeeping Operations'', $85,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

SUBCHAPTER C—GENERAL PROVISIONS—THIS CHAPTER

EXTENSION OF AUTHORITIES

SEC. 1401. Funds appropriated by this chapter may be obligated and expended notwithstanding section 10 of Public Law 91–672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Year 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

IRAQ

SEC. 1402. (a) ASSET TRANSFER AGREEMENT.—

(1) None of the funds appropriated by this chapter for infrastructure maintenance activities in Iraq may be made available until the Secretary of State certifies and reports to the Committees on Appropriations that the Governments of the United States and Iraq have entered into, and are implementing, an asset transfer agreement that includes commitments by the Government of Iraq to maintain United States-funded infrastructure in Iraq.

(2) None of the funds appropriated by this chapter may be made available for the construction of prison facilities in Iraq.

(b) ANTI-CORRUPTION.—None of the funds appropriated by this chapter for rule of law programs in Iraq may be made available for assistance for the Government of Iraq until the Secretary of State certifies and reports to the Committees on Appropriations that a comprehensive anti-corruption strategy has been developed, and is being implemented, by the Government of Iraq, and the Secretary of State submits a list, in classified form if necessary, to the Committees on Appropriations of senior Iraqi officials who the Secretary has credible evidence to believe have committed corrupt acts.

(c) PROVINCIAL RECONSTRUCTION TEAMS.—None of the funds appropriated by this chapter for the operational or program expenses of Provincial Reconstruction Teams (PRTs) in Iraq may be made available until the Secretary of State submits a report to the Committees on Appropriations detailing—

(1) the strategy for the eventual winding down and close out of PRTs;

(2) anticipated costs associated with PRT operations, programs, and eventual winding down and close out, including security for PRT personnel and anticipated Government of Iraq contributions; and

(3) anticipated placement and cost estimates of future United States Consulates in Iraq.

(d) COMMUNITY STABILIZATION PROGRAM.—None of the funds appropriated by this chapter for the Community Stabilization Program in Iraq may be made available until the Secretary of State certifies and reports to the Committees on Appropriations that the United States Agency for International Development is implementing recommendations contained in Office of Inspector General Audit Report No. E–267–08–001–P to ensure accountability of funds.

(e) MATCHING REQUIREMENT.—

(1) Notwithstanding any other provision of law, funds appropriated by this chapter for assistance for Iraq shall be made available only to the extent that the Government of Iraq matches such assistance on a dollar-for-dollar basis.

(2) Subsection (e)(1) shall not apply to funds made available for—

(A) grants and cooperative agreements for programs to promote democracy and human rights;

(B) the Community Action Program and other assistance through civil society organizations;

(C) humanitarian demining; or

(D) assistance for refugees, internally displaced persons, and civilian victims of the military operations.

(3) The Secretary of State shall certify to the Committees on Appropriations prior to the initial obligation of funds pursuant to this section that the Government of Iraq has committed to obligate matching funds on a dollar-for-dollar basis. The Secretary shall submit a report to the Committees on Appropriations not later than September 30, 2008 and 180 days thereafter, detailing the amounts of funds obligated and expended by the Government of Iraq to meet the requirements of this section.

(4) Not later than 45 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations detailing the amounts provided by the Government of Iraq since June 30, 2004, to assist Iraqi refugees in Syria, Jordan, and elsewhere, and the amount of such assistance the Government of Iraq plans to provide in fiscal year 2008. The Secretary shall work expeditiously with the Government of Iraq to establish an account within its annual budget sufficient to, at a minimum, match United States contributions on a dollar-for-dollar basis to organizations and programs for the purpose of assisting Iraqi refugees.

(f) VETTING.—Prior to the initial obligation of funds appropriated for assistance for Iraq in this chapter, the Secretary of State shall, in consultation with the heads of other Federal departments and agencies, take appropriate steps to ensure that such funds are not provided to or through any individual, private entity, or educational institution that the Secretary knows or has reason to believe advocates, plans, sponsors, or engages in, terrorist activities.

(g) IRAQ RELIEF AND RECONSTRUCTION FUND.—

(1) Notwithstanding any other provision of law, the expired balances of funds appropriated or otherwise made available under the heading ''Iraq Relief and Reconstruction Fund'' in prior Acts making appropriations for foreign operations, export financing, and related programs shall be rescinded.

(2) None of the funds made available under the heading ''Iraq Relief and Reconstruction Fund'' in prior Acts making appropriations for foreign operations, export financing, and related programs may be reprogrammed for any purpose other than that previously notified to the Committees on Appropriations prior to April 30, 2008, and none of such funds may be made available to initiate any new projects or activities.

(3) Not later than 30 days after enactment of this Act, the Secretary of State shall report to the Committees on Appropriations on the balances of obligated funds referenced in subsection (g)(1), and estimates of the amount of funds required to close out ongoing projects or for outstanding claims.

AFGHANISTAN

SEC. 1403. (a) ASSISTANCE FOR WOMEN AND GIRLS.—Funds appropriated by this chapter under the heading ''Economic Support Fund'' that are available for assistance for Afghanistan shall be made available, to the maximum extent practicable, through local Afghan provincial and municipal governments and Afghan civil society organizations and in a manner that emphasizes the participation of Afghan women and directly improves the economic, social and political status of Afghan women and girls.

(b) HIGHER EDUCATION.—Of the funds appropriated by this chapter under the heading ''Economic Support Fund'' that are made available for education programs in Afghanistan, not less than 50 percent shall be made available to support higher education and vocational training programs in law, accounting, engineering, public administration, and other disciplines necessary to rebuild the country, in which the participation of women is emphasized.

(c) CIVILIAN ASSISTANCE.—Of the funds appropriated by this chapter under the heading ''Economic Support Fund'' that are available for assistance for Afghanistan, not less than $10,000,000 shall be made available for continued support of the United States Agency for International Development's Afghan Civilian Assistance Program, and not less than $2,000,000 shall be made available for a United States contribution to the North Atlantic Treaty Organization/International Security Assistance Force Post-Operations Humanitarian Relief Fund.

(d) ANTI-CORRUPTION.—Not later than 90 days after the enactment of this Act, the Secretary of State shall—

(1) submit a report to the Committees on Appropriations on actions being taken by the Government of Afghanistan to combat corruption within the national and provincial governments, including to remove and prosecute officials who have committed corrupt acts;

(2) submit a list to the Committees on Appropriations, in classified form if necessary, of senior Afghan officials who the Secretary has credible evidence to believe have committed corrupt acts; and

(3) certify and report to the Committees on Appropriations that effective mechanisms are in place to ensure that assistance to national government ministries and provincial governments will be properly accounted for.

WAIVER OF CERTAIN SANCTIONS AGAINST NORTH KOREA

SEC. 1404. (a) ANNUAL WAIVER AUTHORITY.—

(1) IN GENERAL.—Except as provided in subsection (b), the President may waive in whole or in part, with respect to North Korea, the application of any sanction under section 102(b) of the Arms Export Control Act (22 U.S.C. 2799aa–1(b)), for the purpose of—

(A) assisting in the implementation and verification of the compliance by North Korea with its commitment, undertaken in the Joint Statement of September 19, 2005, to abandon all nuclear weapons and existing nuclear programs as part of the verifiable denuclearization of the Korean Peninsula; and

(B) promoting the elimination of the capability of North Korea to develop, deploy, transfer, or maintain weapons of mass destruction and their delivery systems.

(2) DURATION OF WAIVER.—Any waiver issued under this subsection shall expire at the end of the calendar year in which it is issued.

(b) EXCEPTIONS.—

(1) LIMITED EXCEPTION RELATED TO CERTAIN SANCTIONS AND PROHIBITIONS.—The authority under subsection (a) shall not apply with respect to a sanction or prohibition under subparagraph (B), (C), or (G) of section 102(b)(2) of the Arms Export Control Act, unless the President determines and certifies to the appropriate congressional committees that—

(A) all reasonable steps will be taken to assure that the articles or services exported or otherwise provided will not be used to improve the military capabilities of the armed forces of North Korea; and

(B) such waiver is in the national security interests of the United States.

(2) LIMITED EXCEPTION RELATED TO CERTAIN ACTIVITIES.—Unless the President determines and certifies to the appropriate congressional committees that using the authority under subsection (a) is vital to the national security interests of the United States, such authority shall not apply with respect to—

(A) an activity described in subparagraph (A) of section 102(b)(1) of the Arms Export Control Act that occurs after September 19, 2005, and before the date of the enactment of this Act;

(B) an activity described in subparagraph (C) of such section that occurs after September 19, 2005; or

(C) an activity described in subparagraph (D) of such section that occurs after the date of enactment of this Act.

(3) EXCEPTION RELATED TO CERTAIN ACTIVITIES OCCURRING AFTER DATE OF ENACTMENT.—The authority under subsection (a) shall not apply with respect to an activity described in subparagraph (A) or (B) of section 102(b)(1) of the Arms Export Control Act that occurs after the date of the enactment of this Act.

(c) NOTIFICATIONS AND REPORTS.—

(1) CONGRESSIONAL NOTIFICATION.—The President shall notify the appropriate congressional committees in writing not later than 15 days before exercising the waiver authority under subsection (a).

(2) ANNUAL REPORT.—Not later than January 31, 2009, and annually thereafter, the President shall submit to the appropriate congressional committees a report that—

(A) lists all waivers issued under subsection (a) during the preceding year;

(B) describes in detail the progress that is being made in the implementation of the commitment undertaken by North Korea, in the Joint Statement of September 19, 2005, to abandon all nuclear weapons and existing nuclear programs as part of the verifiable denuclearization of the Korean Peninsula;

(C) discusses specifically any shortcomings in the implementation by North Korea of that commitment; and

(D) lists and describes the progress and shortcomings, in the preceding year, of all other programs promoting the elimination of the capability of North Korea to develop, deploy, transfer, or maintain weapons of mass destruction or their delivery systems.

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

(1) the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

(2) the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives.

MEXICO

SEC. 1405. (a) ASSISTANCE FOR MEXICO.—Of the funds appropriated in subchapter A under the heading ''International Narcotics Control and Law Enforcement'', not more than $350,000,000 may be made available for assistance for Mexico, only to combat drug trafficking and related violence and organized crime, and for judicial reform, anti-corruption, and rule of law activities: *Provided*, That none of the funds made available under this section shall be made available for budget support or as cash payments: *Provided further*, That none of the funds made available under this section shall be available for obligation until the Secretary of State determines and reports to the Committees on Appropriations that vetting procedures are in place to ensure that members and units of the Mexican military and police forces that receive assistance pursuant to this section have not been involved in human rights violations or corrupt acts.

(b) ALLOCATION OF FUNDS.—Twenty-five percent of the funds made available by subchapter A for assistance for Mexico under the heading ''International Narcotics Control and Law Enforcement'' may be obligated only after the Secretary of State determines and reports to the Committees on Appropriations that:

(1) The Government of Mexico is—

(A) strengthening the legal authority and independence of the National Human Rights Commission;

(B) establishing police complaints commissions with authority and independence to receive complaints and carry out effective investigations;

(C) establishing an independent mechanism, with representation from civil society, to monitor programs to combat drug trafficking and related violence and organized crime, judicial reform, anti-corruption, and rule of law activities to ensure due process and the protection of freedoms of expression, association, and assembly, and rights of privacy, in accordance with Mexican and international law;

(D) is enforcing the prohibition on the use of testimony obtained through torture or other ill-treatment in violation of Mexican and international law;

(E) is ensuring that the Mexican military justice system is transferring all cases involving allegations of human rights violations by military personnel to civilian prosecutors and judicial authorities, and that the armed forces are fully cooperating with civilian prosecutors and judicial authorities in prosecuting and punishing in civilian courts members of the armed forces who have been credibly alleged to have committed such violations; and

(F) is ensuring that federal and state police forces are fully cooperating with prosecutors and judicial authorities in prosecuting and punishing members of the police forces who have been credibly alleged to have committed violations of human rights.

(2) Civilian prosecutors and judicial authorities are investigating, prosecuting and punishing members of the Mexican military and police forces who have been credibly alleged to have committed human rights violations.

(c) EXCEPTION.—Notwithstanding subsection (b), of the funds made available for assistance for Mexico pursuant to this section, $3,000,000 shall be made available for technical and other assistance to enable the Government of Mexico to implement a unified national registry of federal, state, and municipal police officers, and $5,000,000 should be made available to the Bureau of Alcohol, Tobacco, Firearms and Explosives to deploy special agents in Mexico to support Mexican law enforcement agencies in tracing seized firearms and investigating firearms trafficking cases.

(d) REPORT.—The report required in subsection (b) shall include a description of actions taken with respect to each requirement specified in subsection (b) and the cases or issues brought to the attention of the Secretary of State for which the response or action taken has been inadequate.

(e) NOTIFICATION.—Funds made available for Mexico in subchapter A shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

(f) SPENDING PLAN.—Not later than 45 days after the date of the enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a detailed spending plan for funds appropriated or otherwise made available for Mexico in subchapter A, which shall include a strategy for combating drug trafficking and related violence and organized crime, judicial reform, preventing corruption, and strengthening the rule of law, with concrete goals, actions to be taken, budget proposals, and anticipated results.

(g) CONSULTATION.—Not later than 90 days after the date of the enactment of this Act, and every 120 days thereafter until September 30, 2010, the Secretary of State shall consult with Mexican and internationally recognized human rights organizations on progress in meeting the requirements described in subsection (b).

CENTRAL AMERICA

SEC. 1406. (a) ASSISTANCE FOR THE COUNTRIES OF CENTRAL AMERICA.—Of the funds appropriated in subchapter A under the headings ''International Narcotics Control and Law Enforcement'' and ''Economic Support Fund'', not more than $100,000,000 may be made available for assistance for the countries of Central America, Haiti, and the Dominican Republic only to combat drug trafficking and related violence and organized crime, and for judicial reform, anti-corruption, and rule of law activities: *Provided*, That of the funds appropriated under the heading ''Economic Support Fund'', $40,000,000 shall be made available through the United States Agency for International Development for an Economic and Social Development Fund for Central America: *Provided further*, That of the funds made available pursuant to this section, $5,000,000 shall be made available for assistance for Haiti and $5,000,000 shall be made available for assistance for the Dominican Republic: *Provided further*, That of the funds made available pursuant to this section that are available for assistance for Guatemala, not less than $1,000,000 shall be made available for a United States contribution to the International Commission Against Impunity in Guatemala: *Provided further*, That none of the funds shall be made available for budget support or as cash payments: *Provided further*, That, with the exception of the first and third provisos in this section, none of the funds shall be available for obligation until the Secretary of State determines and reports to the Committees on Appropriations that vetting procedures are in place to ensure that members and units of the military and police forces of the countries of Central America, Haiti and the Dominican Republic that receive assistance pursuant to this section have not been involved in human rights violations or corrupt acts.

(b) ALLOCATION OF FUNDS.—Twenty-five percent of the funds made available by subchapter A for assistance for the countries of Central America, Haiti and the Dominican Republic under the heading ''International Narcotics Control and Law Enforcement'' may be obligated only after the Secretary of State determines and reports to the Committees on Appropriations that the government of such country is—

(1) establishing a police complaints commission with authority and independence to receive complaints and carry out effective investigations;

(2) implementing reforms to improve the capacity and ensure the independence of the judiciary; and

(3) suspending, prosecuting and punishing members of the military and police forces who have been credibly alleged to have committed violations of human rights and corrupt acts.

(c) REPORT.—The report required in subsection (b) shall include actions taken with respect to each requirement and the cases or issues brought to the attention of the Secretary for which the response or action taken has been inadequate.

(d) NOTIFICATION.—Funds made available for assistance for the countries of Central America, Haiti and the Dominican Republic in subchapter A shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

(e) SPENDING PLAN.—Not later than 45 days after enactment of this Act the Secretary of State shall submit to the Committees on Appropriations a detailed spending plan for funds appropriated or otherwise made available for the countries of Central America, Haiti and the Dominican Republic in subchapter A, which shall include a strategy for combating drug trafficking and related violence and organized crime, judicial reform, preventing corruption, and strengthening the rule of law, with concrete goals, actions to be taken, budget proposals and anticipated results.

(f) CONSULTATION.—Not later than 90 days after the date of enactment of this Act and every 120 days thereafter until September 30, 2010, the Secretary of State shall consult with internationally recognized human rights organizations, and human rights organizations in the countries of Central America, Haiti and the Dominican Republic receiving assistance pursuant to this section, on progress in meeting the requirements described in subsection (b).

(g) DEFINITION.—For the purposes of this section, the term ''countries of Central America'' means Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

TECHNICAL PROVISIONS

SEC. 1407. (a) ADMINISTRATIVE EXPENSES.—Of the funds appropriated or otherwise made available under the heading ''Economic Support Fund'' by title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161), up to $7,800,000 may be made available, in addition to amounts otherwise available for such purposes, for administrative expenses of the United States Agency for International Development for alternative development programs in the Andean region of South America. These funds may be used to reimburse funds appropriated under the heading ''Operating Expenses of the United States Agency for International Development'' for obligations incurred for the purposes provided under this section prior to enactment of this Act.

(b) AUTHORITY.—Funds appropriated or otherwise made available by title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161) under the heading ''Economic Support Fund'' that are available for a competitively awarded grant for nuclear security initiatives relating to North Korea shall be made available notwithstanding any other provision of law.

(c) EXTENSION OF AUTHORITY.—Not more than $1,350,000 of the funds appropriated or otherwise made available under the heading ''Foreign Military Financing Program'' by the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161) that were previously transferred to and merged with ''Diplomatic and Consular Programs'' may be made available for any purposes authorized for that account, of which up to $500,000 shall be made available to increase the capacity of the United States Embassy in Mexico City to vet members and units of Mexican military and police forces that receive assistance made available by this Act and to monitor the uses of such assistance.

(d) REIMBURSEMENTS.—Any agreement for the transfer or allocation of funds appropriated by this Act, or prior Acts, entered into between the United States Agency for International Development and another agency of the United States Government under the authority of section 632(a) of the Foreign Assistance Act of 1961 or any comparable provision of law, shall include the provision of sufficient funds to fully reimburse the United States Agency for International Development for the administrative costs, including the cost of direct hire personnel, incurred in implementing and managing the programs and activities under such transfer or allocation. Such funds transferred or allocated to the United States Agency for International Development for administrative costs shall be transferred to and merged with ''Operating Expenses of the United States Agency for International Development''.

(e) EXCEPTION.—Section 10002 of title X of this Act shall not apply to this section.

(f) SPENDING AUTHORITY.—Funds made available by this chapter may be expended notwithstanding section 699K of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161).

BUYING POWER MAINTENANCE ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

SEC. 1408. (a) Of the funds appropriated under the heading ''Diplomatic and Consular Programs'' and allocated by section 3810 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28), $26,000,000 shall be transferred to and merged with funds in the ''Buying Power Maintenance Account'': *Provided*, That of the funds made available by this chapter up to an additional $74,000,000 may be transferred to and merged with the ''Buying Power Maintenance Account'', subject to the regular notification procedures of the Committees on Appropriations and in accordance with the procedures in section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706). Any funds transferred pursuant to this section shall be available, without fiscal year limitation, pursuant to section 24 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696).

(b) Section 24(b)(7) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(b)(7)) is amended by amending subparagraph (D) to read as follows:

''(D) The authorities contained in this paragraph may be exercised only with respect to funds appropriated or otherwise made available after fiscal year 2008.''.

SERBIA

SEC. 1409. (a) Of the funds made available for assistance for Serbia under the heading ''Assistance for Eastern Europe and the Baltic States'' by title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161), an amount equivalent to the costs of damage to the United States Embassy in Belgrade, Serbia, as estimated by the Secretary of State, resulting from the February 21, 2008 attack on such Embassy, shall be transferred to, and merged with, funds provided under the heading ''Embassy Security, Construction, and Maintenance'' to be used for necessary repairs or future construction.

(b) The requirements of subsection (a) shall not apply if the Secretary of State certifies to the Committees on Appropriations that the Government of Serbia has provided full compensation to the Department of State for damages to the United States Embassy in Belgrade, Serbia resulting from the February 21, 2008 attack on such Embassy.

(c) Section 10002 of title X of this Act shall not apply to this section.

RESCISSIONS

(INCLUDING RESCISSIONS)

SEC. 1410. (a) WORLD FOOD PROGRAM.—

(1) For an additional amount for a contribution to the World Food Program to assist farmers in countries affected by food shortages to increase crop yields, notwithstanding any other provision of law, $20,000,000, to remain available until expended.

(2) Of the funds appropriated under the heading ''Andean Counterdrug Initiative'' in prior acts making appropriations for foreign operations, export financing, and related programs, $20,000,000 are rescinded.

(b) SUDAN.—

(1) For an additional amount for ''International Narcotics Control and Law Enforcement'', $10,000,000, for assistance for Sudan to support formed police units, to remain available until September 30, 2009, and subject to prior consultation with the Committees on Appropriations.

(2) Of the funds appropriated under the heading ''International Narcotics Control and Law Enforcement'' in prior acts making appropriations for foreign operations, export financing, and related programs, $10,000,000 are rescinded.

(c) MEXICO.—Of the unobligated balances of funds appropriated for ''Iraq Relief and Reconstruction Fund'' in prior Acts making appropriations for foreign operations, export financing, and related programs, $50,000,000 are rescinded, notwithstanding section 1402(g) of this Act.

(d) HORN OF AFRICA.—

(1) For an additional amount for ''Economic Support Fund'', $40,000,000 for programs to promote development and counter extremism in the Horn of Africa, to be administered by the United States Agency for International Development, and to remain available until September 30, 2009.

(2) Of the unobligated balances of funds appropriated for ''Iraq Relief and Reconstruction Fund'' in prior Acts making appropriations for foreign operations, export financing, and related programs, $40,000,000 are rescinded, notwithstanding section 1402(g) of this Act.

(e) EXCEPTION.—Section 10002 of title X of this Act shall not apply to subsections (a) and (b) of this section.

DARFUR PEACEKEEPING

SEC. 1411. Funds appropriated under the headings ''Foreign Military Financing Program'' and ''Peacekeeping Operations'' by the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161) and by prior Acts making appropriations for foreign operations, export financing, and related programs may be used to transfer or lease helicopters necessary to the operations of the African Union/United Nations peacekeeping operation in Darfur, Sudan, that was established pursuant to United Nations Security Council Resolution 1769. The President may utilize the authority of sections 506 or 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318, 2321j) or section 61 of the Arms Export Control Act (22 U.S.C. 2796) in order to effect such transfer or lease, notwithstanding any other provision of law except for sections 502B(a)(2), 620A and 620J of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2), 2371, 2378d) and section 40A of the Arms Export Control Act (22 U.S.C. 2780). Any exercise of the authority of section 506 of the Foreign Assistance Act pursuant to this section may include the authority to acquire helicopters by contract.

FOOD SECURITY AND CYCLONE NARGIS RELIEF

(INCLUDING RESCISSION OF FUNDS)

SEC. 1412. (a) For an additional amount for ''International Disaster Assistance'', $225,000,000, to address the international food crisis globally and for assistance for Burma to address the effects of Cyclone Nargis: *Provided*, That not less than $125,000,000 should be made available for the local or regional purchase and distribution of food to address the international food crisis: *Provided further*, That notwithstanding any other provision of law, none of the funds appropriated under this heading may be made available for assistance for the State Peace and Development Council.

(b) Of the unexpended balances of funds appropriated under the heading ''Millennium Challenge Corporation'' in prior Acts making appropriations for foreign operations, export financing and related programs, $225,000,000 are rescinded.

(c) Section 10002 of title X of this Act shall not apply to this section.

SOUTH AFRICA

SEC. 1413. The Secretary of State, after consultation with the Attorney General and the Secretary of Homeland Security, may determine, in the Secretary's sole and unreviewable discretion considering the foreign policy interests of the United States, that for activities undertaken in opposition to apartheid rule, subsections (a)(2) and (a)(3)(B) of 8 U.S.C. 1182, as amended, shall not apply.

JORDAN

(INCLUDING RESCISSION OF FUNDS)

SEC. 1414. (a) For an additional amount for ''Economic Support Fund'' for assistance for

Jordan, $100,000,000, to remain available until September 30, 2009.

(b) For an additional amount for ''Foreign Military Financing Program'' for assistance for Jordan, $200,000,000, to remain available until September 30, 2009.

(c) Of the unexpended balances of funds appropriated under the heading ''Millennium Challenge Corporation'' in prior Acts making appropriations for foreign operations, export financing, and related programs, $300,000,000 are rescinded.

(d) Section 10002 of title X of this Act shall not apply to this section.

ALLOCATIONS

SEC. 1415. (a) Funds provided by this chapter for the following accounts shall be made available for programs and countries in the amounts contained in the respective tables included in the explanatory statement accompanying this Act:

''Diplomatic and Consular Programs''.

''Economic Support Fund''.

(b) Any proposed increases or decreases to the amounts contained in such tables in the statement accompanying this Act shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

REPROGRAMMING AUTHORITY

SEC. 1416. Notwithstanding any other provision of law, to include minimum funding requirements or funding directives, funds made available under the headings ''Development Assistance'' and ''Economic Support Fund'' in prior Acts making appropriations for foreign operations, export financing, and related programs may be made available to address critical food shortages, subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

SPENDING PLANS AND NOTIFICATION PROCEDURES

SEC. 1417. (a) SUBCHAPTER A SPENDING PLAN.—Not later than 45 days after the enactment of this Act the Secretary of State shall submit to the Committees on Appropriations a report detailing planned expenditures for funds appropriated under the headings in subchapter A, except for funds appropriated under the headings ''International Disaster Assistance'', ''Migration and Refugee Assistance'', and ''United States Emergency Refugee and Migration Assistance Fund''.

(b) SUBCHAPTER B SPENDING PLAN.—The Secretary of State shall submit to the Committees on Appropriations not later than November 1, 2008, and prior to the initial obligation of funds, a detailed spending plan for funds appropriated or otherwise made available in subchapter B, except for funds appropriated under the headings ''International Disaster Assistance'', ''Migration and Refugee Assistance'', and ''United States Emergency Refugee and Migration Assistance Fund''.

(c) NOTIFICATION.—Funds made available in this chapter shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

TERMS AND CONDITIONS

SEC. 1418. Unless otherwise provided for in this Act, funds appropriated, or otherwise made available, by this chapter shall be available under the authorities and conditions provided in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161).

TITLE II

DOMESTIC MATTERS

CHAPTER 1

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for salaries and expenses of the Food and Drug Administration, $265,000,000, to remain available until September 30, 2009: *Provided*, That of the amount provided: (1) $119,000,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) $48,500,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs; (3) $23,500,000 shall be for the Center for Biologics Evaluation and Research and related field activities in the Office of Regulatory Affairs; (4) $10,700,000 shall be for the Center for Veterinary Medicine and related field activities in the Office of Regulatory Affairs; (5) $35,500,000 shall be for the Center for Devices and Radiological Health and related field activities in the Office of Regulatory Affairs; (6) $6,000,000 shall be for the National Center for Toxicological Research; and (7) $21,800,000 shall be for other activities, including the Office of the Commissioner, the Office of Scientific and Medical Programs; the Office of Policy, Planning and Preparedness; the Office of International and Special Programs; the Office of Operations; and central services for these offices.

BUILDINGS AND FACILITIES

For an additional amount for plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $10,000,000, to remain available until expended.

CHAPTER 2

DEPARTMENT OF COMMERCE

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

For an additional amount for ''Periodic Censuses and Programs'', $210,000,000, to remain available until expended, for necessary expenses related to the 2010 Decennial Census: *Provided*, That not less than $3,000,000 shall be transferred to the ''Office of Inspector General'' at the Department of Commerce for necessary expenses associated with oversight activities of the 2010 Decennial Census: *Provided further*, That $1,000,000 shall be used only for a reimbursable agreement with the Defense Contract Management Agency to provide continuing contract management oversight of the 2010 Decennial Census.

DEPARTMENT OF JUSTICE

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $50,000,000, to remain available until September 30, 2009, for the United States Marshals Service to implement and enforce the Adam Walsh Child Protection and Safety Act (Public Law 109–248) to track down and arrest non-compliant sex offenders.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $178,000,000, to remain available until September 30, 2008.

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for the Edward Byrne Memorial Justice Assistance Grant program as authorized by subpart 1 of part E of title I of Omnibus Crime Control and Safe Street Act of 1968 (''1968 Act''), (except that section 1001(c), and the special rules for Puerto Rico under section 505(g), of the 1968 Act, shall not apply for purposes of this Act), $490,000,000, to remain available until September 30, 2008.

For an additional amount for ''State and Local Law Enforcement Assistance'', $100,000,000 for competitive grants, to remain available until expended, to provide assistance and equipment to local law enforcement along the Southern border and in High-Intensity Drug Trafficking Areas to combat criminal narcotic activity stemming from the Southern border, of which $10,000,000 shall be for the ATF Project Gunrunner.

SCIENCE

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RETURN TO FLIGHT

For necessary expenses, not otherwise provided for, in carrying out return to flight activities associated with the space shuttle and activities from which funds were transferred to accommodate return to flight activities, $200,000,000, to remain available until September 30, 2009 with such sums as determined by the Administrator of the National Aeronautics and Space Administration as available for transfer to and ''Science, Aeronautics, Exploration'', and ''Exploration Capabilities'' for restoration of funds previously reallocated to meet return to flight activities.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For additional expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), $150,000,000, to remain available until September 30, 2009.

EDUCATION AND HUMAN RESOURCES

For additional expenses in carrying out science and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), $50,000,000, to remain available until September 30, 2009.

GENERAL PROVISION—THIS CHAPTER

SEC. 2201. (a) Section 3008(a) of the Digital Television Transition and Public Safety Act of 2005 is amended—

(1) by inserting ''(1) IN GENERAL.—'' before ''The Assistant Secretary''; and

(2) by adding at the end thereof the following:

''(2) USE OF FUNDS.—As soon as practicable after the date of enactment of this Act, the Assistant Secretary shall make a determination, which the Assistant Secretary may adjust from time to time, with respect to whether the full amount provided under paragraph (1) will be needed for payments under that paragraph. If the Assistant Secretary determines that the full amount will not be needed for payments authorized by paragraph (1), the Assistant Secretary may use the remaining amount for consumer education and technical assistance regarding the digital television transition and the availability of the digital-to-analog converter box program (in addition to any amounts expended for such purpose under 3005(c)(2)(A) of this title), including partnering with, providing grants to, and contracting with non-profit organizations or public interest groups in achieving these efforts. If the Assistant Secretary initiates such an education program, the Assistant Secretary shall develop a plan to address the educational and technical assistance needs of vulnerable populations, such as senior citizens, individuals residing in rural and remote areas, and minorities, including, where

appropriate, education plans focusing on the need for analog pass-through digital converter boxes in areas served by low power or translator stations, and shall consider the speed with which these objectives can be accomplished to the greatest public benefit.''.

(b) Section 3009(a) of the Deficit Reduction Act of 2005 (Public Law 109–171) is amended—

(1) by striking ''fiscal year 2009'' and inserting ''fiscal years 2009 through 2012''; and

(2) by striking ''no earlier than October 1, 2010'' and inserting ''on or after February 18, 2009''.

CHAPTER 3

DEPARTMENT OF ENERGY

NON-DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for ''Non-Defense Environmental Cleanup'', $5,000,000, to remain available until expended.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For an additional amount for ''Uranium Enrichment Decontamination and Decommissioning Fund'', $52,000,000, to remain available until expended.

SCIENCE

For an additional amount for ''Science'', $100,000,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for ''Defense Environmental Cleanup'', $243,000,000, to remain available until expended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2301. (a) Subject to subsection (b), the Secretary of Energy shall continue the cooperative agreement numbered DE–FC 26–06NT42073, as in effect on the date of enactment of this Act, through March 30, 2009.

(b) During the period beginning on the date of enactment of this Act and ending on March 30, 2009—

(1) the agreement described in subsection (a) may not be terminated except by the mutual consent of the parties to the agreement; and

(2) funds may be expended under the agreement only to complete and provide information and documentation to the Department of Energy.

SEC. 2302. INCENTIVES FOR ADDITIONAL DOWNBLENDING OF HIGHLY ENRICHED URANIUM BY THE RUSSIAN FEDERATION. The USEC Privatization Act (42 U.S.C. 2297h et seq.) is amended—

(1) in section 3102, by striking ''For purposes'' and inserting ''Except as provided in section 3112A, for purposes'';

(2) in section 3112(a), by striking ''The Secretary'' and inserting ''Except as provided in section 3112A(d), the Secretary''; and

(3) by inserting after section 3112 the following:

''SEC. 3112A. INCENTIVES FOR ADDITIONAL DOWNBLENDING OF HIGHLY ENRICHED URANIUM BY THE RUSSIAN FEDERATION.

''(a) DEFINITIONS.—In this section:

''(1) COMPLETION OF THE RUSSIAN HEU AGREEMENT.—The term 'completion of the Russian HEU Agreement' means the importation into the United States from the Russian Federation pursuant to the Russian HEU Agreement of uranium derived from the downblending of not less than 500 metric tons of highly enriched uranium of weapons origin.

''(2) DOWNBLENDING.—The term 'downblending' means processing highly enriched uranium into a uranium product in any form in which the uranium contains less than 20 percent uranium-235.

''(3) HIGHLY ENRICHED URANIUM.—The term 'highly enriched uranium' has the meaning given that term in section 3102(4).

''(4) HIGHLY ENRICHED URANIUM OF WEAPONS ORIGIN.—The term 'highly enriched uranium of weapons origin' means highly enriched uranium that—

''(A) contains 90 percent or more uranium-235; and

''(B) is verified by the Secretary of Energy to be of weapons origin.

''(5) LOW-ENRICHED URANIUM.—The term 'low-enriched uranium' means a uranium product in any form, including uranium hexafluoride (UF_6) and uranium oxide (UO_2), in which the uranium contains less than 20 percent uranium-235, without regard to whether the uranium is incorporated into fuel rods or complete fuel assemblies.

''(6) RUSSIAN HEU AGREEMENT.—The term 'Russian HEU Agreement' has the meaning given that term in section 3102(11).

''(7) URANIUM-235.—The term 'uranium-235' means the isotope ^{235}U.

''(b) STATEMENT OF POLICY.—It is the policy of the United States to support the continued downblending of highly enriched uranium of weapons origin in the Russian Federation in order to protect the essential security interests of the United States with respect to the nonproliferation of nuclear weapons.

''(c) PROMOTION OF DOWNBLENDING OF RUSSIAN HIGHLY ENRICHED URANIUM.—

''(1) INCENTIVES FOR THE COMPLETION OF THE RUSSIAN HEU AGREEMENT.—Prior to the completion of the Russian HEU Agreement, the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation and is not imported pursuant to the Russian HEU Agreement may not exceed the following amounts:

''(A) In each of the calendar years 2008 and 2009, not more than 22,500 kilograms.

''(B) In each of the calendar years 2010 and 2011, not more than 45,000 kilograms.

''(C) In calendar year 2012 and each calendar year thereafter through the calendar year of the completion of the Russian HEU Agreement, not more than 67,500 kilograms.

''(2) INCENTIVES TO CONTINUE DOWNBLENDING RUSSIAN HIGHLY ENRICHED URANIUM AFTER THE COMPLETION OF THE RUSSIAN HEU AGREEMENT.—

''(A) IN GENERAL.—In each calendar year beginning after the calendar year of the completion of the Russian HEU Agreement and before the termination date described in paragraph (8), the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin, may not exceed 400,000 kilograms.

''(B) ADDITIONAL IMPORTS.—

''(i) IN GENERAL.—In addition to the amount authorized to be imported under subparagraph (A) and except as provided in clause (ii), 20 kilograms of low-enriched uranium, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin, may be imported for every 3 kilograms of Russian highly enriched uranium of weapons origin that was downblended in the preceding calendar year, subject to the verification of the Secretary of Energy under paragraph (10).

''(ii) MAXIMUM ANNUAL IMPORTS.—Not more than 200,000 kilograms of low-enriched uranium may be imported in a calendar year under clause (i).

''(3) EXCEPTION WITH RESPECT TO INITIAL CORES.—The import limitations described in paragraphs (1) and (2) shall not apply to low-enriched uranium produced in the Russian Federation that is imported into the United States for use in the initial core of a new nuclear reactor.

''(4) ANNUAL ADJUSTMENT.—

''(A) IN GENERAL.—Beginning in the second calendar year after the calendar year of the completion of the Russian HEU Agreement, the Secretary of Energy shall increase or decrease the amount of low-enriched uranium that may be imported in a calendar year under paragraph (2) (including the amount of low-enriched uranium that may be imported for each kilogram of highly enriched uranium downblended under paragraph (2)(B)(i)) by a percentage equal to the percentage increase or decrease, as the case may be, in the average amount of uranium loaded into nuclear power reactors in the United States in the most recent 3-calendar-year period for which data are available, as reported by the Energy Information Administration of the Department of Energy, compared to the average amount of uranium loaded into such reactors during the 3-calendar-year period beginning on January 1, 2011, as reported by the Energy Information Administration.

''(B) PUBLICATION OF ADJUSTMENTS.—As soon as practicable, but not later than July 31 of each calendar year, the Secretary of Energy shall publish in the Federal Register the amount of low-enriched uranium that may be imported in the current calendar year after the adjustment under subparagraph (A).

''(5) AUTHORITY FOR ADDITIONAL ADJUSTMENT.—In addition to the annual adjustment under paragraph (4), the Secretary of Commerce may adjust the import limitations under paragraph (2)(A) for a calendar year if the Secretary—

''(A) in consultation with the Secretary of Energy, determines that the available supply of low-enriched uranium from the Russian Federation and the available stockpiles of uranium of the Department of Energy are insufficient to meet demand in the United States in the following calendar year; and

''(B) notifies Congress of the adjustment not less than 45 days before making the adjustment.

''(6) EQUIVALENT QUANTITIES OF LOW-ENRICHED URANIUM IMPORTS.—

''(A) IN GENERAL.—The import limitations described in paragraphs (1) and (2) are expressed in terms of uranium containing 4.4 percent uranium-235 and a tails assay of 0.3 percent.

''(B) ADJUSTMENT FOR OTHER URANIUM.—Imports of low-enriched uranium under paragraphs (1) and (2) shall count against the import limitations described in such paragraphs in amounts calculated as the quantity of low-enriched uranium containing 4.4 percent uranium-235 necessary to equal the total amount of uranium-235 contained in such imports.

''(7) DOWNBLENDING OF OTHER HIGHLY ENRICHED URANIUM.—

''(A) IN GENERAL.—The downblending of highly enriched uranium not of weapons origin may be counted for purposes of paragraph (2)(B) or (8)(B), subject to verification under paragraph (10), if the Secretary of Energy determines that the highly enriched uranium to be downblended poses a risk to the national security of the United States.

''(B) EQUIVALENT QUANTITIES OF HIGHLY ENRICHED URANIUM.—For purposes of determining the additional low-enriched uranium imports allowed under paragraph (2)(B) and for purposes of paragraph (8)(B), highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A) shall count as downblended highly enriched uranium of weapons origin in amounts calculated as the quantity of highly enriched uranium containing 90 percent uranium-235 necessary to equal the total amount of uranium-235 contained in the highly enriched

uranium not of weapons origin downblended pursuant to subparagraph (A).

''(8) TERMINATION OF IMPORT RESTRICTIONS AFTER DOWNBLENDING OF AN ADDITIONAL 300 METRIC TONS OF HIGHLY ENRICHED URANIUM.—The provisions of this subsection shall terminate on the later of—

''(A) December 31, 2020; or

''(B) the date on which the Secretary of Energy certifies to Congress that, after the completion of the Russian HEU Agreement, not less than an additional 300 metric tons of Russian highly enriched uranium of weapons origin have been downblended.

''(9) SPECIAL RULE IF IMPORTATION UNDER RUSSIAN HEU AGREEMENT TERMINATES EARLY.—Notwithstanding any other provision of law, no low-enriched uranium produced in the Russian Federation that is not derived from highly enriched uranium of weapons origin, including low-enriched uranium obtained under contracts for separative work units, may be imported into the United States if, before the completion of the Russian HEU Agreement, the Secretary of Energy determines that the Russian Federation has taken deliberate action to disrupt or halt the importation into the United States of low-enriched uranium under the Russian HEU Agreement.

''(10) TECHNICAL VERIFICATIONS BY SECRETARY OF ENERGY.—

''(A) IN GENERAL.—The Secretary of Energy shall verify the origin, quantity, and uranium-235 content of the highly enriched uranium downblended for purposes of paragraphs (2)(B), (7), and (8)(B).

''(B) METHODS OF VERIFICATION.—In conducting the verification required under subparagraph (A), the Secretary of Energy shall employ the transparency measures provided for in the Russian HEU Agreement for monitoring the downblending of Russian highly enriched uranium of weapons origin and such other methods as the Secretary determines appropriate.

''(11) ENFORCEMENT OF IMPORT LIMITATIONS.—The Secretary of Commerce shall be responsible for enforcing the import limitations imposed under this subsection and shall enforce such import limitations in a manner that imposes a minimal burden on the commercial nuclear industry.

''(12) EFFECT ON OTHER AGREEMENTS.—

''(A) RUSSIAN HEU AGREEMENT.—Nothing in this section shall be construed to modify the terms of the Russian HEU Agreement, including the provisions of the Agreement relating to the amount of low-enriched uranium that may be imported into the United States.

''(B) OTHER AGREEMENTS.—If a provision of any agreement between the United States and the Russian Federation, other than the Russian HEU Agreement, relating to the importation of low-enriched uranium into the United States conflicts with a provision of this section, the provision of this section shall supersede the provision of the agreement to the extent of the conflict.

''(d) DOWNBLENDING OF HIGHLY ENRICHED URANIUM IN THE UNITED STATES.—The Secretary of Energy may sell uranium in the jurisdiction of the Secretary, including downblended highly enriched uranium, at fair market value to a licensed operator of a nuclear reactor in the United States—

''(1) in the event of a disruption in the nuclear fuel supply in the United States; or

''(2) after a determination of the Secretary under subsection (c)(9) that the Russian Federation has taken deliberate action to disrupt or halt the importation into the United States of low-enriched uranium under the Russian HEU Agreement.''.

CHAPTER 4

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2401. VETERANS BUSINESS RESOURCE CENTERS. There are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008, $600,000 for the ''Salaries and Expenses'' account of the Small Business Administration, for grants in the amount of $200,000 to veterans business resource centers that received grants from the National Veterans Business Development Corporation in fiscal years 2006 and 2007.

SEC. 2402. (a) IN GENERAL.—Section 604(a)(5) of title 28, United States Code, is amended by inserting after ''hold office during good behavior,'' the following: ''bankruptcy judges appointed under chapter 6 of title 28; territorial district court judges appointed under section 24 of the Organic Act of Guam (48 U.S.C. 1424b), section 1(b) of the Act of November 8, 1977 (48 U.S.C. 1821), or section 24(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614(a)); bankruptcy judges retired under section 377 of title 28; and judges retired under section 373 of title 28,''.

(b) CONSTRUCTION.—For purposes of construing and applying chapter 87 of title 5, United States Code, including any adjustment of insurance rates by regulation or otherwise, the following categories of judicial officers shall be deemed to be judges of the United States as described under section 8701 of title 5, United States Code:

(1) Bankruptcy judges appointed under chapter 6 of title 28, United States Code.

(2) Territorial district court judges appointed under section 24 of the Organic Act of Guam (48 U.S.C. 1424b), section 1(b) of the Act of November 8, 1977 (48 U.S.C. 1821), or section 24(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614(a)).

(3) Bankruptcy judges retired under section 377 of title 28, United States Code.

(4) Judges retired under section 373 of title 28, United States Code.

(c) EFFECTIVE DATE.—Subsection (b) and the amendment made by subsection (a) shall apply with respect to any payment made on or after the first day of the first applicable pay period beginning on or after the date of enactment of Public Law No. 110–177.

SEC. 2403. Life Insurance for Tax Court Judges Age 65 or Over. (a) IN GENERAL.—Section 7472 of the Internal Revenue Code of 1986 is amended by inserting after the word ''imposed'' where it appears in the second sentence the following phrase: ''after April 24, 1999, that is incurred''.

(b) EFFECTIVE DATE.—This amendment shall take effect as if included in the amendment made by section 852 of the Pension Protection Act of 2006.

CHAPTER 5

GENERAL PROVISION—THIS CHAPTER

SEC. 2501. SECURE RURAL SCHOOLS ACT AMENDMENT. (a) For fiscal year 2008, payments shall be made from any revenues, fees, penalties, or miscellaneous receipts described in sections 102(b)(3) and 103(b)(2) of the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393; 16 U.S.C. 500 note), not to exceed $100,000,000, and the payments shall be made, to the maximum extent practicable, in the same amounts, for the same purposes, and in the same manner as were made to States and counties in 2006 under that Act.

(b) There is appropriated $400,000,000, to remain available until December 31, 2008, to be used to cover any shortfall for payments made under this section from funds not otherwise appropriated.

(c) Titles II and III of Public Law 106–393 are amended, effective September 30, 2006, by striking ''2007'' and ''2008'' each place they appear and inserting ''2008'' and ''2009'', respectively.

CHAPTER 6

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for ''State Unemployment Insurance and Employment Service Operations'' for grants to the States for the administration of State unemployment insurance, $110,000,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund, to be used for unemployment insurance workloads experienced by the States through September 30, 2008, which shall be available for Federal obligation through December 31, 2008.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for ''Disease Control, Research, and Training'', $26,000,000, for the prevention of and response to medical errors including research, education and outreach activities; of which no less than $5,000,000 shall be for responding to outbreaks of communicable diseases related to the re-use of syringes in outpatient clinics, including reimbursement of local health departments for testing and genetic sequencing of persons potentially exposed.

NATIONAL INSTITUTES OF HEALTH

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of the Director, National Institutes of Health'', $400,000,000, which shall be used to support additional scientific research in the Institutes and Centers of the National Institutes of Health: *Provided*, That these funds are to be transferred to the Institutes and Centers on a pro-rata basis: *Provided further*, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the National Institutes of Health: *Provided further*, That none of these funds are to be transferred to the Buildings and Facilities appropriation, the Center for Scientific Review, the Center for Information Technology, the Clinical Center, the Global Fund for HIV/AIDS, Tuberculosis and Malaria, and the Office of the Director except for the NIH Common Fund within the Office of the Director, which shall receive its pro-rata share of the increase.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2601. (a) In addition to amounts otherwise made available for fiscal year 2008, there are appropriated, out of any money in the Treasury not otherwise appropriated—

(1) $500,000,000 for fiscal year 2008, for making payments under subsections (a) through (d) of section 2604 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623); and

(2) $500,000,000 for fiscal year 2008, for making allotments under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)) that are made in such a manner as to ensure that each State's allotment percentage is the percentage the State would receive of funds allotted under section 2604(a) of such Act (42 U.S.C. 8623(a)), if the total amount appropriated for fiscal year 2008 and available to carry out such section 2604(a) had been less than $1,975,000,000.

(b) Funds appropriated under subsection (a)(2), and funds appropriated (but not obligated) prior to the date of enactment of this Act for making payments under section 2604(e) of such Act (42 U.S.C. 8623(e)), shall be released to States not later than 30 days after the date of enactment of this Act.

SEC. 2602. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES. (a) IN GENERAL.—Section 8104 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 189) is amended to read as follows:

"SEC. 8104. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES.

''(a) STUDY.—Beginning on the date that is 60 days after the date of enactment of this Act, and every year thereafter until the minimum wage in the respective territory is $7.25 per hour, the Government Accountability Office shall conduct a study to—

''(1) assess the impact of the minimum wage increases that occurred in American Samoa and the Commonwealth of the Northern Mariana Islands in 2007 and 2008, as required under Public Law 110–28, on the rates of employment and the living standards of workers, with full consideration of the other factors that impact rates of employment and the living standards of workers such as inflation in the cost of food, energy, and other commodities; and

''(2) estimate the impact of any further wage increases on rates of employment and the living standards of workers in American Samoa and the Commonwealth of the Northern Mariana Islands, with full consideration of the other factors that may impact the rates of employment and the living standards of workers, including assessing how the profitability of major private sector firms may be impacted by wage increases in comparison to other factors such as energy costs and the value of tax benefits.

''(b) REPORT.—No earlier than March 15, 2009, and not later than April 15, 2009, the Government Accountability Office shall transmit its first report to Congress concerning the findings of the study required under subsection (a). The Government Accountability Office shall transmit any subsequent reports to Congress concerning the findings of a study required by subsection (a) between March 15 and April 15 of each year.

''(c) ECONOMIC INFORMATION.—To provide sufficient economic data for the conduct of the study under subsection (a)—

''(1) the Department of Labor shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its household surveys and establishment surveys;

''(2) the Bureau of Economic Analysis of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its gross domestic product data; and

''(3) the Bureau of the Census of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its population estimates and demographic profiles from the American Community Survey,

with the same regularity and to the same extent as the Department or each Bureau collects and reports such data for the 50 States. In the event that the inclusion of American Samoa and the Commonwealth of the Northern Mariana Islands in such surveys and data compilations requires time to structure and implement, the Department of Labor, the Bureau of Economic Analysis, and the Bureau of the Census (as the case may be) shall in the interim annually report the best available data that can feasibly be secured with respect to such territories. Such interim reports shall describe the steps the Department or the respective Bureau will take to improve future data collection in the territories to achieve comparability with the data collected in the United States. The Department of Labor, the Bureau of Economic Analysis, and the Bureau of the Census, together with the Department of the Interior, shall coordinate their efforts to achieve such improvements.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

CHAPTER 7

RELATED AGENCY

AMERICAN BATTLE MONUMENTS COMMISSION

FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

For an additional amount for ''Foreign Currency Fluctuations Account'', $10,000,000, to remain available until expended, for purposes authorized by section 2109 of title 36, United States Code.

CHAPTER 8

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2801. Until January 1, 2009, an aircraft used by an air carrier in the operation specified in section 47528(e)(3) of title 49, United States Code, as of April 1, 2008, may continue to be operated under the provisions of that section by an air carrier that purchases or leases that aircraft after April 1, 2008, for conduct of the same operation. Operation of that aircraft under section 47528(e)(4) is authorized for the same time period.

SEC. 2802. Title 49, United States Code, is amended—

(1) by striking ''August 31, 2008,'' in section 44302(f)(1) and inserting ''August 31, 2009,'';

(2) by striking ''December 31, 2008,'' in section 44302(f)(1) and inserting ''December 31, 2009,''; and

(3) by striking ''December 31, 2008'' in section 44303(b) and inserting ''December 31, 2009''.

TITLE III

HURRICANES KATRINA AND RITA, AND OTHER NATURAL DISASTERS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FARM SERVICE AGENCY

EMERGENCY CONSERVATION PROGRAM

For the purposes of carrying out the Emergency Conservation Program, there is hereby appropriated $49,413,000, to remain available until expended.

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for ''Watershed and Flood Prevention Operations'', for emergency recovery operations, $130,464,000, to remain available until expended.

GENERAL PROVISION—THIS CHAPTER

(INCLUDING RESCISSION)

SEC. 3101. Of the funds made available in the second paragraph under the heading ''Rural Utilities Service, Rural Electrification and Telecommunications Loans Program Account'' in chapter 1 of division B of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109–148; 119 Stat. 2746), the Secretary may use an amount not to exceed $1,000,000 of remaining unobligated funds for the cost of loan modifications to rural electric loans made or guaranteed under the Rural Electrification Act of 1936, to respond to damage caused by any weather related events since Hurricane Katrina, to remain available until expended: *Provided*, That $1,000,000 of the remaining unobligated funds under such paragraph are rescinded.

CHAPTER 2

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for economic development assistance as provided by section 3082(a) of the Water Resources Development Act of 2007 (Public Law 110–114), $75,000,000, to remain available until September 30, 2009.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for ''Operations, Research, and Facilities'' for necessary expenses related to economic impacts associated with commercial fishery failures, fishery resource disasters, and regulations on commercial fishing industries, $75,000,000, to remain available until September 30, 2009.

DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for ''State and Local Law Enforcement Assistance'', for discretionary grants authorized by subpart 2 of part E, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as in effect on September 30, 2006, notwithstanding the provisions of section 511 of said Act, $75,000,000, to remain available until September 30, 2009: *Provided*, That the amount made available under this heading shall be for local law enforcement initiatives in the Gulf Coast region related to the aftermath of Hurricane Katrina.

GENERAL PROVISION—THIS CHAPTER

SEC. 3201. GULF OF MEXICO DESIGNATIONS. (a) Notwithstanding any other provision of law, no funds made available under this Act or any other Act for fiscal year 2008 or 2009 may be used to establish a national monument or otherwise convey protected status to any area in the marine environment of the Exclusive Economic Zone of the United States under the Act of June 8, 1906 (16 U.S.C. 431 et seq.).

(b) Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce may, as applicable, and in compliance with all requirements under title III of the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) (including the procedures for designation and implementation under section 304 of that Act (16 U.S.C. 1434)) with respect to any proposed protected area, submit to Congress a study of the proposed protected area.

CHAPTER 3

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION

For an additional amount for ''Construction'' for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, and for recovery from other natural disasters $5,033,345,000, to remain available until expended: *Provided*, That the Secretary of the Army is directed to use $4,362,000,000 of the funds appropriated under this heading to modify authorized projects in southeast Louisiana to provide hurricane and storm damage reduction and flood damage reduction in the greater New Orleans and surrounding areas to provide the levels of protection necessary to achieve the certification required

for participation in the National Flood Insurance Program under the base flood elevations current at the time of this construction; $1,657,000,000 shall be used for the Lake Pontchartrain and Vicinity; $1,415,000,000 shall be used for the West Bank and Vicinity project; and $1,290,000,000 shall be for elements of the Southeast Louisiana Urban Drainage project, that are within the geographic perimeter of the West Bank and Vicinity and Lake Pontchartrain and Vicinity projects to provide for interior drainage of runoff from rainfall with a 10 percent annual exceedance probability: *Provided further*, That none of this $4,362,000,000 shall become available for obligation until October 1, 2008: *Provided further*, That non-Federal cost allocations for these projects shall be consistent with the cost-sharing provisions under which the projects were originally constructed: *Provided further*, That the $1,315,000,000 non-Federal cost share for these projects shall be repaid in accordance with provisions of section 103(k) of Public Law 99–662 over a period of 30 years: *Provided further*, That the expenditure of funds as provided above may be made without regard to individual amounts or purposes except that any reallocation of funds that are necessary to accomplish the established goals are authorized, subject to the approval of the House and Senate Committees on Appropriations: *Provided further*, That the Secretary of the Army is directed to use $604,745,000 of the funds appropriated under this heading to provide hurricane and storm damage reduction, flood damage reduction and ecosystem restoration along the Gulf Coast of Mississippi and surrounding areas generally as described in the Mobile District Engineer's Mississippi Coastal Improvements Program Comprehensive Plan Report; $173,615,000 shall be used for ecosystem restoration projects; $4,550,000 shall be used for the Moss Point Municipal Relocation project; $5,000,000 shall be used for the Waveland Floodproofing project; $150,000 shall be used for the Mississippi Sound Sub Aquatic Vegetation project; $15,430,000 shall be used for the Coast-wide Dune Restoration project; $397,000,000 shall be used for the Homeowners Assistance and Relocation project; and $9,000,000 shall be used for the Forrest Heights Hurricane and Storm Damage Reduction project: *Provided further*, That none of this $604,745,000 shall become available for obligation until October 1, 2008: *Provided further*, That these projects shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary requiring the non-Federal interests to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of the project and to hold and save the United States free from damages due to the construction or operation and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors: *Provided further*, That the $211,661,000 non-Federal cost share for these projects shall be repaid in accordance with the provisions of section 103(k) of Public Law 99–662 over a period of 30 years: *Provided further*, That the expenditure of funds as provided above may be made without regard to individual amounts or purposes except that any reallocation of funds that are necessary to accomplish the established goals are authorized, subject to the approval of the House and Senate Committees on Appropriations: *Provided further*, That the Secretary of the Army is directed to use $66,600,000 of the funds appropriated under this heading to address emergency situations at Corps of Engineers projects and rehabilitate and repair damages to Corps projects caused by recent natural disasters: *Provided further*, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for ''Mississippi River and Tributaries'' for recovery from natural disasters, $17,700,000, to remain available until expended to repair damages to Federal projects caused by recent natural disasters.

OPERATIONS AND MAINTENANCE

For an additional amount for ''Operations and Maintenance'' to dredge navigation channels and repair other Corps projects related to natural disasters, $338,800,000, to remain available until expended: *Provided*, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for ''Flood Control and Coastal Emergencies'', as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), for necessary expenses relating to the consequences of Hurricane Katrina and other hurricanes, and for recovery from other natural disasters, $3,368,400,000, to remain available until expended: *Provided*, That the Secretary of the Army is directed to use $2,926,000,000 of the funds appropriated under this heading to modify, at full Federal expense, authorized projects in southeast Louisiana to provide hurricane and storm damage reduction and flood damage reduction in the greater New Orleans and surrounding areas; $704,000,000 shall be used to modify the 17th Street, Orleans Avenue, and London Avenue drainage canals and install pumps and closure structures at or near the lakefront; $90,000,000 shall be used for stormproofing interior pump stations to ensure the operability of the stations during hurricanes, storms, and high water events; $459,000,000 shall be used for armoring critical elements of the New Orleans hurricane and storm damage reduction system; $53,000,000 shall be used to improve protection at the Inner Harbor Navigation Canal; $456,000,000 shall be used to replace or modify certain non-Federal levees in Plaquemines Parish to incorporate the levees into the existing New Orleans to Venice hurricane protection project; $412,000,000 shall be used for reinforcing or replacing flood walls, as necessary, in the existing Lake Pontchartrain and Vicinity project and the existing West Bank and Vicinity project to improve the performance of the systems; $393,000,000 shall be used for repair and restoration of authorized protections and floodwalls; $359,000,000 shall be to complete the authorized protection for the Lake Ponchartrain and Vicinity Project and for the West Bank and Vicinity Project: *Provided further*, That none of this $2,926,000,000 shall become available for obligation until October 1, 2008: *Provided further*, That any project using funds appropriated under this heading shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary requiring the non-Federal interests to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of the project and to hold and save the United States free from damages due to the construction or operation and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors: *Provided further*, That the Secretary of the Army, within available funds, is directed to continue the NEPA alternative evaluation of all options with particular attention to Options 1, 2 and 2a of the report to Congress, dated August 30, 2007, provided in response to the requirements of chapter 3, section 4303 of Public Law 110–28, and within 90 days of enactment of this Act provide the House and Senate Committees on Appropriations cost estimates to implement Options 1, 2 and 2a of the above cited report: *Provided further*, That the expenditure of funds as provided above may be made without regard to individual amounts or purposes except that any reallocation of funds that are necessary to accomplish the established goals are authorized, subject to the approval of the House and Senate Committees on Appropriations: *Provided further*, That $348,000,000 of the amount provided under this heading shall be used for barrier island restoration and ecosystem restoration to restore historic levels of storm damage reduction to the Mississippi Gulf Coast: *Provided further*, That none of this $348,000,000 shall become available for obligation until October 1, 2008: *Provided further*, That this work shall be carried out at full Federal expense: *Provided further*, That the Secretary of the Army is directed to use $94,400,000 of the funds appropriated under this heading to support emergency operations, to repair eligible projects nationwide, and for other activities in response to recent natural disasters: *Provided further*, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

GENERAL EXPENSES

For an additional amount for ''General Expenses'' for increased efforts by the Mississippi Valley Division to oversee emergency response and recovery activities related to the consequences of hurricanes in the Gulf of Mexico in 2005, $1,500,000, to remain available until expended.

CHAPTER 4

GENERAL PROVISION—THIS CHAPTER

SEC. 3401. (a) EXTENSION OF PARTICIPATION TERM FOR VICTIMS OF HURRICANE KATRINA.—

(1) RETROACTIVITY.—If a small business concern, while participating in any program or activity under the authority of paragraph (10) of section 7(j) of the Small Business Act (15 U.S.C. 636(j)), was located in a parish or county described in paragraph (2) and was affected by Hurricane Katrina of 2005, the period during which that small business concern is permitted continuing participation and eligibility in such program or activity shall be extended for an additional 24 months.

(2) PARISHES AND COUNTIES COVERED.—Paragraph (1) applies to any parish in the State of Louisiana, or any county in the State of Mississippi or in the State of Alabama, that has been designated by the Administrator as a disaster area by reason of Hurricane Katrina of 2005 under disaster declaration 10176, 10177, 10178, 10179, 10180, or 10181.

(3) REVIEW AND COMPLIANCE.—The Administrator shall ensure that the eligibility for continuing participation by each small business concern that was participating in a program or activity covered by paragraph (1) before the date of enactment of this Act is reviewed and brought into compliance with this subsection.

(b) DEFINITIONS.—In this section—

(1) the term ''Administrator'' means the Administrator of the Small Business Administration; and

(2) the term ''small business concern'' has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632).

CHAPTER 5

GENERAL PROVISIONS—THIS CHAPTER

SEC. 3501. Notwithstanding any other provision of law, and not later than 30 days after the date of submission of a request for a single payment, the Federal Emergency Management Agency shall provide a single payment for any eligible costs under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act for any police station, fire station, or criminal justice facility that was damaged by Hurricane Katrina of 2005 or Hurricane Rita of 2005: *Provided*, That nothing in this section may be construed to alter the appeal or review process relating to assistance provided under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act: *Provided further*, That the Federal Emergency Management Agency shall not reduce the amount of assistance provided under section 406(c)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act for such facilities.

SEC. 3502. Until such time as the updating of flood insurance rate maps under section 19 of the Flood Modernization Act of 2007 is completed (as determined by the district engineer) for all areas located in the St. Louis District of the Mississippi Valley Division of the Corps of Engineers, the Administrator of the Federal Emergency Management Agency shall not adjust the chargeable premium rate for flood insurance under this section for any type or class of property located in an area in that District nor require the purchase of flood insurance for any type or class of property located in an area in that District not subject to such purchase requirement prior to the updating of such national flood insurance program rate map: *Provided*, That for purposes of this section, the term ''area'' does not include any area (or subdivision thereof) that has chosen not to participate in the flood insurance program under this section as of the date of enactment of this Act.

CHAPTER 6

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Wildland Fire Management'', $125,000,000, to remain available until expended, of which $100,000,000 is for emergency wildland fire suppression activities, and of which $25,000,000 is for rehabilitation and restoration of Federal lands: *Provided*, That emergency wildland fire suppression funds are also available for repayment to other appropriations accounts from which funds were transferred for wildfire suppression.

NATIONAL PARK SERVICE

HISTORIC PRESERVATION FUND

For an additional amount for the ''Historic Preservation Fund'', for expenses related to the consequences of Hurricane Katrina, $15,000,000, to remain available until expended: *Provided*, That the funds provided under this heading shall be provided to the Louisiana State Historic Preservation Officer, after consultation with the National Park Service, for grants for restoration and rehabilitation at Jackson Barracks: *Provided further*, That no more than 5 percent of funds provided under this heading for disaster relief grants may be used for administrative expenses.

ENVIRONMENTAL PROTECTION AGENCY

STATE AND TRIBAL ASSISTANCE GRANTS

For an additional amount for ''State and Tribal Assistance Grants'', for expenses related to the consequences of Hurricane Katrina, $5,000,000, to remain available until expended, for a grant to Cameron Parish, Louisiana, for construction of drinking water, wastewater and storm water infrastructure and for water quality protection: *Provided*, That for purposes of this grant, the grantee shall contribute not less than 45 percent of the cost of the project unless the grantee is approved for a waiver by the Agency.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for ''Wildland Fire Management'', $325,000,000, to remain available until expended, of which $250,000,000 shall be available for emergency wildfire suppression, and of which $75,000,000 shall be available for rehabilitation and restoration of Federal lands and may be transferred to other Forest Service accounts as necessary: *Provided*, That emergency wildfire suppression funds are also available for repayment to other appropriations accounts from which funds were transferred for wildfire suppression.

CHAPTER 7

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR MEDICARE AND MEDICAID SERVICES

For grants to States, consistent with section 6201(a)(4) of the Deficit Reduction Act of 2005, to make payments as defined by the Secretary in the methodology used for the Provider Stabilization grants to those Medicare participating general acute care hospitals, as defined in section 1886(d) of the Social Security Act, and currently operating in Jackson, Forrest, Hancock, and Harrison Counties of Mississippi and Orleans and Jefferson Parishes of Louisiana which continue to experience severe financial exigencies and other economic losses attributable to Hurricane Katrina or its subsequent flooding, and are in need of supplemental funding to relieve the financial pressures these hospitals face resulting from increased wage rates in hiring and retaining staff in order to stabilize access to patient care, $350,000,000, to be made available until September 30, 2010.

CHAPTER 8

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

(INCLUDING RESCISSION OF FUNDS)

For an additional amount for ''Military Construction, Army National Guard'', $11,503,000, to remain available until September 30, 2012: *Provided*, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds appropriated for ''Military Construction, Army National Guard'' under Public Law 109–234, $7,000,000 are hereby rescinded.

GENERAL PROVISION—THIS CHAPTER

SEC. 3801. Within the funds available in the Department of Defense Family Housing Improvement Fund as credited in accordance with 10 U.S.C. 2883(c), $10,500,000 shall be available for use at the Naval Construction Battalion Center, Gulfport, Mississippi, under the terms and conditions specified by 10 U.S.C. 2883, to remain available until expended.

CHAPTER 9

DEPARTMENT OF TRANSPORTATION

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

For an additional amount for the Emergency Relief Program as authorized under section 125 of title 23, United States Code, for eligible disasters occurring in fiscal years 2005 to the present, $451,126,383, to remain available until expended.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PERMANENT SUPPORTIVE HOUSING

For the provision of permanent supportive housing units as identified in the plan of the Louisiana Recovery Authority and approved by the Secretary of Housing and Urban Development, $73,000,000 to remain available until expended, of which not less than $20,000,000 shall be for project-based vouchers under section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)), not less than $50,000,000 shall be for grants under the Shelter Plus Care Program as authorized under subtitle F of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11403 et seq.), and not more than $3,000,000 shall be for related administrative expenses of the State of Louisiana or its designee or designees: *Provided*, That the Secretary of Housing and Urban Development shall, upon request, make funds available under this paragraph to the State of Louisiana or its designee or designees: *Provided further*, That notwithstanding any other provision of law, for the purpose of administering the amounts provided under this paragraph, the State of Louisiana or its designee or designees may act in all respects as a public housing agency as defined in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)): *Provided further*, That subparagraphs (B) and (D) of section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)) shall not apply with respect to vouchers made available under this paragraph.

PROJECT-BASED RENTAL ASSISTANCE

For an additional amount to areas impacted by Hurricane Katrina in the State of Mississippi for project-based vouchers under section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)13)), $20,000,000, to remain available until expended.

HOUSING TRANSITION ASSISTANCE

For an additional amount to the State of Louisiana for case management and housing transition services for families in areas impacted by Hurricanes Katrina and Rita of 2005, $3,000,000, to remain available until expended.

COMMUNITY DEVELOPMENT FUND

For an additional amount for the ''Community development fund'' for necessary expenses related to any uncompensated housing damage directly related to the consequences of Hurricane Katrina in the State of Alabama, $50,000,000, to remain available until expended: *Provided*, That prior to the obligation of funds the State shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address uncompensated housing damage: *Provided further*, That such funds may not be used for activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency: *Provided further*, That the State may use up to 5 percent of its allocation for administrative costs: *Provided further*, That in administering the funds under this paragraph, the Secretary of Housing and Urban Development may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon

a request by the State that such waiver is required to facilitate the use of such funds or guarantees, and a finding by the Secretary that such waiver would not be inconsistent with the overall purpose of the statute: *Provided further*, That the Secretary may waive the requirement that activities benefit persons of low and moderate income, except that at least 50 percent of the funds made available under this heading must benefit primarily persons of low and moderate income unless the Secretary otherwise makes a finding of compelling need: *Provided further*, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver.

(RESCISSION)

Of the unobligated balances remaining from funds appropriated under this heading by section 159 of Public Law 110–116 for the Louisiana Road Home program, $200,000,000 are rescinded.

TITLE IV—VETERANS EDUCATIONAL ASSISTANCE

SEC. 4001. SHORT TITLE.

This title may be cited as the ''Post-9/11 Veterans Educational Assistance Act of 2008''.

SEC. 4002. FINDINGS.

Congress makes the following findings:

(1) On September 11, 2001, terrorists attacked the United States, and the brave members of the Armed Forces of the United States were called to the defense of the Nation.

(2) Service on active duty in the Armed Forces has been especially arduous for the members of the Armed Forces since September 11, 2001.

(3) The United States has a proud history of offering educational assistance to millions of veterans, as demonstrated by the many ''G.I. Bills'' enacted since World War II. Educational assistance for veterans helps reduce the costs of war, assist veterans in readjusting to civilian life after wartime service, and boost the United States economy, and has a positive effect on recruitment for the Armed Forces.

(4) The current educational assistance program for veterans is outmoded and designed for peacetime service in the Armed Forces.

(5) The people of the United States greatly value military service and recognize the difficult challenges involved in readjusting to civilian life after wartime service in the Armed Forces.

(6) It is in the national interest for the United States to provide veterans who serve on active duty in the Armed Forces after September 11, 2001, with enhanced educational assistance benefits that are worthy of such service and are commensurate with the educational assistance benefits provided by a grateful Nation to veterans of World War II.

SEC. 4003. EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE ARMED FORCES WHO SERVE AFTER SEPTEMBER 11, 2001.

(a) EDUCATIONAL ASSISTANCE AUTHORIZED.—

(1) IN GENERAL.—Part III of title 38, United States Code, is amended by inserting after chapter 32 the following new chapter:

''CHAPTER 33—POST–9/11 EDUCATIONAL ASSISTANCE

''SUBCHAPTER I—DEFINITIONS

''SUBCHAPTER I—DEFINITIONS

''§ 3301. Definitions

''In this chapter:

''(1) The term 'active duty' has the meanings as follows (subject to the limitations specified in sections 3002(6) and 3311(b) of this title):

''(A) In the case of members of the regular components of the Armed Forces, the meaning given such term in section 101(21)(A) of this title.

''(B) In the case of members of the reserve components of the Armed Forces, service on active duty under a call or order to active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10.

''(2) The term 'entry level and skill training' means the following:

''(A) In the case of members of the Army, Basic Combat Training and Advanced Individual Training.

''(B) In the case of members of the Navy, Recruit Training (or Boot Camp) and Skill Training (or so-called 'A' School).

''(C) In the case of members of the Air Force, Basic Military Training and Technical Training.

''(D) In the case of members of the Marine Corps, Recruit Training and Marine Corps Training (or School of Infantry Training).

''(E) In the case of members of the Coast Guard, Basic Training.

''(3) The term 'program of education' has the meaning the meaning given such term in section 3002 of this title, except to the extent otherwise provided in section 3313 of this title.

''(4) The term 'Secretary of Defense' has the meaning given such term in section 3002 of this title.

''SUBCHAPTER II—EDUCATIONAL ASSISTANCE

''§ 3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement

''(a) ENTITLEMENT.—Subject to subsections (d) and (e), each individual described in subsection (b) is entitled to educational assistance under this chapter.

''(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual as follows:

''(1) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 36 months on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty; or

''(ii) is discharged or released from active duty as described in subsection (c).

''(2) An individual who—

''(A) commencing on or after September 11, 2001, serves at least 30 continuous days on active duty in the Armed Forces; and

''(B) after completion of service described in subparagraph (A), is discharged or released from active duty in the Armed Forces for a service-connected disability.

''(3) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 30 months, but less than 36 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty for an aggregate of less than 36 months; or

''(ii) before completion of service on active duty of an aggregate of 36 months, is discharged or released from active duty as described in subsection (c).

''(4) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 24 months, but less than 30 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty for an aggregate of less than 30 months; or

''(ii) before completion of service on active duty of an aggregate of 30 months, is discharged or released from active duty as described in subsection (c).

''(5) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 18 months, but less than 24 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty for an aggregate of less than 24 months; or

''(ii) before completion of service on active duty of an aggregate of 24 months, is discharged or released from active duty as described in subsection (c).

''(6) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 12 months, but less than 18 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty for an aggregate of less than 18 months; or

''(ii) before completion of service on active duty of an aggregate of 18 months, is discharged or released from active duty as described in subsection (c).

''(7) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 6 months, but less than 12 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty for an aggregate of less than 12 months; or

''(ii) before completion of service on active duty of an aggregate of 12 months, is discharged or released from active duty as described in subsection (c).

''(8) An individual who—

''(A) commencing on or after September 11, 2001, serves an aggregate of at least 90 days, but less than 6 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

''(B) after completion of service described in subparagraph (A)—

''(i) continues on active duty for an aggregate of less than 6 months; or

''(ii) before completion of service on active duty of an aggregate of 6 months, is discharged or released from active duty as described in subsection (c).

''(c) COVERED DISCHARGES AND RELEASES.—A discharge or release from active duty of an individual described in this subsection is a discharge or release as follows:

''(1) A discharge from active duty in the Armed Forces with an honorable discharge.

''(2) A release after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service and placement on the retired list, transfer to the Fleet Reserve or Fleet Marine Corps Reserve, or placement on the temporary disability retired list.

''(3) A release from active duty in the Armed Forces for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

''(4) A discharge or release from active duty in the Armed Forces for—

''(A) a medical condition which preexisted the service of the individual as described in the applicable paragraph of subsection (b) and which the Secretary determines is not service-connected;

''(B) hardship; or

''(C) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense.

''(d) PROHIBITION ON TREATMENT OF CERTAIN SERVICE AS PERIOD OF ACTIVE DUTY.—The following periods of service shall not be considered a part of the period of active duty on which an individual's entitlement to educational assistance under this chapter is based:

''(1) A period of service on active duty of an officer pursuant to an agreement under section 2107(b) of title 10.

''(2) A period of service on active duty of an officer pursuant to an agreement under section 4348, 6959, or 9348 of title 10.

''(3) A period of service that is terminated because of a defective enlistment and induction based on—

''(A) the individual's being a minor for purposes of service in the Armed Forces;

''(B) an erroneous enlistment or induction; or

''(C) a defective enlistment agreement.

''(e) TREATMENT OF INDIVIDUALS ENTITLED UNDER MULTIPLE PROVISIONS.—In the event an individual entitled to educational assistance under this chapter is entitled by reason of both paragraphs (4) and (5) of subsection (b), the individual shall be treated as being entitled to educational assistance under this chapter by reason of paragraph (5) of such subsection.

''§ 3312. Educational assistance: duration

''(a) IN GENERAL.—Subject to section 3695 of this title and except as provided in subsections (b) and (c), an individual entitled to educational assistance under this chapter is entitled to a number of months of educational assistance under section 3313 of this title equal to 36 months.

''(b) CONTINUING RECEIPT.—The receipt of educational assistance under section 3313 of this title by an individual entitled to educational assistance under this chapter is subject to the provisions of section 3321(b)(2) of this title.

''(c) DISCONTINUATION OF EDUCATION FOR ACTIVE DUTY.—(1) Any payment of educational assistance described in paragraph (2) shall not—

''(A) be charged against any entitlement to educational assistance of the individual concerned under this chapter; or

''(B) be counted against the aggregate period for which section 3695 of this title limits the individual's receipt of educational assistance under this chapter.

''(2) Subject to paragraph (3), the payment of educational assistance described in this paragraph is the payment of such assistance to an individual for pursuit of a course or courses under this chapter if the Secretary finds that the individual—

''(A)(i) in the case of an individual not serving on active duty, had to discontinue such course pursuit as a result of being called or ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10; or

''(ii) in the case of an individual serving on active duty, had to discontinue such course pursuit as a result of being ordered to a new duty location or assignment or to perform an increased amount of work; and

''(B) failed to receive credit or lost training time toward completion of the individual's approved education, professional, or vocational objective as a result of having to discontinue, as described in subparagraph (A), the individual's course pursuit.

''(3) The period for which, by reason of this subsection, educational assistance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall not exceed the portion of the period of enrollment in the course or courses from which the individual failed to receive credit or with respect to which the individual lost training time, as determined under paragraph (2)(B).

''§ 3313. Educational assistance: amount; payment

''(a) PAYMENT.—The Secretary shall pay to each individual entitled to educational assistance under this chapter who is pursuing an approved program of education (other than a program covered by subsections (e) and (f)) the amounts specified in subsection (c) to meet the expenses of such individual's subsistence, tuition, fees, and other educational costs for pursuit of such program of education.

''(b) APPROVED PROGRAMS OF EDUCATION.—A program of education is an approved program of education for purposes of this chapter if the program of education is offered by an institution of higher learning (as that term is defined in section 3452(f) of this title) and is approved for purposes of chapter 30 of this title (including approval by the State approving agency concerned).

''(c) AMOUNT OF EDUCATIONAL ASSISTANCE.—The amounts payable under this subsection for pursuit of an approved program of education are amounts as follows:

''(1) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(1) or 3311(b)(2) of this title, amounts as follows:

''(A) An amount equal to the established charges for the program of education, except that the amount payable under this subparagraph may not exceed the maximum amount of established charges regularly charged in-State students for full-time pursuit of approved programs of education for undergraduates by the public institution of higher education offering approved programs of education for undergraduates in the State in which the individual is enrolled that has the highest rate of regularly-charged established charges for such programs of education among all public institutions of higher education in such State offering such programs of education.

''(B) A monthly stipend in an amount as follows:

''(i) For each month the individual pursues the program of education, other than a program of education offered through distance learning, a monthly housing stipend amount equal to the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E–5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution of higher education at which the individual is enrolled.

''(ii) For the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational costs with respect to such quarter, semester, or term in the amount equal to—

''(I) $1,000, multiplied by

''(II) the fraction which is the portion of a complete academic year under the program of education that such quarter, semester, or term constitutes.

''(2) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(3) of this title, amounts equal to 90 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

''(3) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(4) of this title, amounts equal to 80 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

''(4) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(5) of this title, amounts equal to 70 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

''(5) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(6) of this title, amounts equal to 60 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

''(6) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(7) of this title, amounts equal to 50 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

''(7) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(8) of this title, amounts equal to 40 percent of the amounts that would be payable to the individual

under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

''(d) FREQUENCY OF PAYMENT.—(1) Payment of the amounts payable under subsection (c)(1)(A), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

''(2) Payment of the amount payable under subsection (c)(1)(B), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made on a monthly basis.

''(3) The Secretary shall prescribe in regulations methods for determining the number of months (including fractions thereof) of entitlement of an individual to educational assistance this chapter that are chargeable under this chapter for an advance payment of amounts under paragraphs (1) and (2) for pursuit of a program of education on a quarter, semester, term, or other basis.

''(e) PROGRAMS OF EDUCATION PURSUED ON ACTIVE DUTY.—(1) Educational assistance is payable under this chapter for pursuit of an approved program of education while on active duty.

''(2) The amount of educational assistance payable under this chapter to an individual pursuing a program of education while on active duty is the lesser of—

''(A) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

''(B) the amount of the charges of the educational institution as elected by the individual in the manner specified in section 3014(b)(1) of this title.

''(3) Payment of the amount payable under paragraph (2) for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

''(4) For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at the rate of one month for each such month.

''(f) PROGRAMS OF EDUCATION PURSUED ON HALF-TIME BASIS OR LESS.—(1) Educational assistance is payable under this chapter for pursuit of an approved program of education on half-time basis or less.

''(2) The educational assistance payable under this chapter to an individual pursuing a program of education on half-time basis or less is the amounts as follows:

''(A) The amount equal to the lesser of—

''(i) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

''(ii) the maximum amount that would be payable to the individual for the program of education under paragraph (1)(A) of subsection (c), or under the provisions of paragraphs (2) through (7) of subsection (c) applicable to the individual, for the program of education if the individual were entitled to amounts for the program of education under subsection (c) rather than this subsection.

''(B) A stipend in an amount equal to the amount of the appropriately reduced amount of the lump sum amount for books, supplies, equipment, and other educational costs otherwise payable to the individual under subsection (c).

''(3) Payment of the amounts payable to an individual under paragraph (2) for pursuit of a program of education on half-time basis or less shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

''(4) For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at a percentage of a month equal to—

''(A) the number of course hours borne by the individual in pursuit of the program of education involved, divided by

''(B) the number of course hours for full-time pursuit of such program of education.

''(g) PAYMENT OF ESTABLISHED CHARGES TO EDUCATIONAL INSTITUTIONS.—Amounts payable under subsections (c)(1)(A) (and of similar amounts payable under paragraphs (2) through (7) of subsection (c)), (e)(2) and (f)(2)(A) shall be paid directly to the educational institution concerned.

''(h) ESTABLISHED CHARGES DEFINED.—(1) In this section, the term 'established charges', in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay.

''(2) Established charges shall be determined for purposes of this subsection on the following basis:

''(A) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

''(B) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

''§ 3314. Tutorial assistance

''(a) IN GENERAL.—Subject to subsection (b), an individual entitled to educational assistance under this chapter shall also be entitled to benefits provided an eligible veteran under section 3492 of this title.

''(b) CONDITIONS.—(1) The provision of benefits under subsection (a) shall be subject to the conditions applicable to an eligible veteran under section 3492 of this title.

''(2) In addition to the conditions specified in paragraph (1), benefits may not be provided to an individual under subsection (a) unless the professor or other individual teaching, leading, or giving the course for which such benefits are provided certifies that—

''(A) such benefits are essential to correct a deficiency of the individual in such course; and

''(B) such course is required as a part of, or is prerequisite or indispensable to the satisfactory pursuit of, an approved program of education.

''(c) AMOUNT.—(1) The amount of benefits described in subsection (a) that are payable under this section may not exceed $100 per month, for a maximum of 12 months, or until a maximum of $1,200 is utilized.

''(2) The amount provided an individual under this subsection is in addition to the amounts of educational assistance paid the individual under section 3313 of this title.

''(d) NO CHARGE AGAINST ENTITLEMENT.—Any benefits provided an individual under subsection (a) are in addition to any other educational assistance benefits provided the individual under this chapter.

''§ 3315. Licensure and certification tests

''(a) IN GENERAL.—An individual entitled to educational assistance under this chapter shall also be entitled to payment for one licensing or certification test described in section 3452(b) of this title.

''(b) LIMITATION ON AMOUNT.—The amount payable under subsection (a) for a licensing or certification test may not exceed the lesser of—

''(1) $2,000; or

''(2) the fee charged for the test.

''(c) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under subsection (a) is in addition to any other educational assistance benefits provided the individual under this chapter.

''§ 3316. Supplemental educational assistance: members with critical skills or specialty; members serving additional service

''(a) INCREASED ASSISTANCE FOR MEMBERS WITH CRITICAL SKILLS OR SPECIALTY.—(1) In the case of an individual who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit or, in the case of critical units, retain personnel, the Secretary concerned may increase the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7) of such section (as applicable).

''(2) The amount of the increase in educational assistance authorized by paragraph (1) may not exceed the amount equal to the monthly amount of increased basic educational assistance providable under section 3015(d)(1) of this title at the time of the increase under paragraph (1).

''(b) SUPPLEMENTAL ASSISTANCE FOR ADDITIONAL SERVICE.—(1) The Secretary concerned may provide for the payment to an individual entitled to educational assistance under this chapter of supplemental educational assistance for additional service authorized by subchapter III of chapter 30 of this title. The amount so payable shall be payable as an increase in the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7) of such section (as applicable).

''(2) Eligibility for supplement educational assistance under this subsection shall be determined in accordance with the provisions of subchapter III of chapter 30 of this title, except that any reference in such provisions to eligibility for basic educational assistance under a provision of subchapter II of chapter 30 of this title shall be treated as a reference to eligibility for educational assistance under the appropriate provision of this chapter.

''(3) The amount of supplemental educational assistance payable under this subsection shall be the amount equal to the monthly amount of supplemental educational payable under section 3022 of this title.

''(c) REGULATIONS.—The Secretaries concerned shall administer this section in accordance with such regulations as the Secretary of Defense shall prescribe.

''§ 3317. Public-private contributions for additional educational assistance

''(a) ESTABLISHMENT OF PROGRAM.—In instances where the educational assistance provided pursuant to section 3313(c)(1)(A) does not cover the full cost of established charges (as specified in section 3313 of this title), the Secretary shall carry out a program under which colleges and universities can, voluntarily, enter into an agreement with the Secretary to cover a portion of those established charges not otherwise covered under section 3313(c)(1)(A), which contributions shall be matched by equivalent contributions toward such costs by the Secretary. The program shall only apply to covered individuals described in paragraphs (1) and (2) of section 3311(b).

''(b) DESIGNATION OF PROGRAM.—The program under this section shall be known as the 'Yellow Ribbon G.I. Education Enhancement Program'.

''(c) AGREEMENTS.—The Secretary shall enter into an agreement with each college or university seeking to participate in the program under this section. Each agreement shall specify the following:

''(1) The manner (whether by direct grant, scholarship, or otherwise) of the contributions to be made by the college or university concerned.

''(2) The maximum amount of the contribution to be made by the college or university concerned with respect to any particular individual in any given academic year.

''(3) The maximum number of individuals for whom the college or university concerned will make contributions in any given academic year.

''(4) Such other matters as the Secretary and the college or university concerned jointly consider appropriate.

''(d) MATCHING CONTRIBUTIONS.—(1) In instances where the educational assistance provided an individual under section 3313(c)(1)(A) of this title does not cover the full cost of tuition and mandatory fees at a college or university, the Secretary shall provide up to 50 percent of the remaining costs for tuition and mandatory fees if the college or university voluntarily enters into an agreement with the Secretary to match an equal percentage of any of the remaining costs for such tuition and fees.

''(2) Amounts available to the Secretary under section 3324(b) of this title for payment of the costs of this chapter shall be available to the Secretary for purposes of paragraph (1).

''(e) OUTREACH.—The Secretary shall make available on the Internet website of the Department available to the public a current list of the colleges and universities participating in the program under this section. The list shall specify, for each college or university so listed, appropriate information on the agreement between the Secretary and such college or university under subsection (c).

''§ 3318. Additional assistance: relocation or travel assistance for individual relocating or traveling significant distance for pursuit of a program of education

''(a) ADDITIONAL ASSISTANCE.—Each individual described in subsection (b) shall be paid additional assistance under this section in the amount of $500.

''(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual entitled to educational assistance under this chapter—

''(1) who resides in a highly rural area (as determined by the Bureau of the Census); and

''(2) who—

''(A) physically relocates a distance of at least 500 miles in order to pursue a program of education for which the individual utilizes educational assistance under this chapter; or

''(B) travels by air to physically attend an institution of higher education for pursuit of such a program of education because the individual cannot travel to such institution by automobile or other established form of transportation due to an absence of road or other infrastructure.

''(c) PROOF OF RESIDENCE.—For purposes of subsection (b)(1), an individual may demonstrate the individual's place of residence utilizing any of the following:

''(1) DD Form 214, Certification of Release or Discharge from Active Duty.

''(2) The most recent Federal income tax return.

''(3) Such other evidence as the Secretary shall prescribe for purposes of this section.

''(d) SINGLE PAYMENT OF ASSISTANCE.—An individual is entitled to only one payment of additional assistance under this section.

''(e) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under this section is in addition to any other educational assistance benefits provided the individual under this chapter.''.

''SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

''§ 3321. Time limitation for use of and eligibility for entitlement

''(a) IN GENERAL.—Except as provided in this section, the period during which an individual entitled to educational assistance under this chapter may use such individual's entitlement expires at the end of the 15-year period beginning on the date of such individual's last discharge or release from active duty.

''(b) EXCEPTIONS.—(1) Subsections (b), (c), and (d) of section 3031 of this title shall apply with respect to the running of the 15-year period described in subsection (a) of this section in the same manner as such subsections apply under section 3031 of this title with respect to the running of the 10-year period described in section 3031(a) of this title.

''(2) Section 3031(f) of this title shall apply with respect to the termination of an individual's entitlement to educational assistance under this chapter in the same manner as such section applies to the termination of an individual's entitlement to educational assistance under chapter 30 of this title, except that, in the administration of such section for purposes of this chapter, the reference to section 3013 of this title shall be deemed to be a reference to 3312 of this title.

''(3) For purposes of subsection (a), an individual's last discharge or release from active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service, unless the individual is discharged or released as described in section 3311(b)(2) of this title.

''§ 3322. Bar to duplication of educational assistance benefits

''(a) IN GENERAL.—An individual entitled to educational assistance under this chapter who is also eligible for educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980 (Public Law 96–449; 5 U.S.C. 5561 note) may not receive assistance under two or more such programs concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which chapter or provisions to receive educational assistance.

''(b) INAPPLICABILITY OF SERVICE TREATED UNDER EDUCATIONAL LOAN REPAYMENT PROGRAMS.—A period of service counted for purposes of repayment of an education loan under chapter 109 of title 10 may not be counted as a period of service for entitlement to educational assistance under this chapter.

''(c) SERVICE IN SELECTED RESERVE.—An individual who serves in the Selected Reserve may receive credit for such service under only one of this chapter, chapter 30 of this title, and chapters 1606 and 1607 of title 10, and shall elect (in such form and manner as the Secretary may prescribe) under which chapter such service is to be credited.

''(d) ADDITIONAL COORDINATION MATTERS.—In the case of an individual entitled to educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980, or making contributions toward entitlement to educational assistance under chapter 30 of this title, as of August 1, 2009, coordination of entitlement to educational assistance under this chapter, on the one hand, and such chapters or provisions, on the other, shall be governed by the provisions of section ____03(c) of the Post-9/11 Veterans Educational Assistance Act of 2008.

''§ 3323. Administration

''(a) IN GENERAL.—(1) Except as otherwise provided in this chapter, the provisions specified in section 3034(a)(1) of this title shall apply to the provision of educational assistance under this chapter.

''(2) In applying the provisions referred to in paragraph (1) to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such provisions to the term 'eligible veteran' shall be deemed to refer to an individual entitled to educational assistance under this chapter.

''(3) In applying section 3474 of this title to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such section 3474 to the term 'educational assistance allowance' shall be deemed to refer to educational assistance payable under section 3313 of this title.

''(4) In applying section 3482(g) of this title to an individual entitled to educational assistance under this chapter for purposes of this section—

''(A) the first reference to the term 'educational assistance allowance' in such section 3482(g) shall be deemed to refer to educational assistance payable under section 3313 of this title; and

''(B) the first sentence of paragraph (1) of such section 3482(g) shall be applied as if such sentence ended with 'equipment'.

''(b) INFORMATION ON BENEFITS.—(1) The Secretary of Veterans Affairs shall provide the information described in paragraph (2) to each member of the Armed Forces at such times as the Secretary of Veterans Affairs and the Secretary of Defense shall jointly prescribe in regulations.

''(2) The information described in this paragraph is information on benefits, limitations, procedures, eligibility requirements (including time-in-service requirements), and other important aspects of educational assistance under this chapter, including application forms for such assistance under section 5102 of this title.

''(3) The Secretary of Veterans Affairs shall furnish the information and forms described in paragraph (2), and other educational materials on educational assistance under this chapter, to educational institutions, training establishments, military education personnel, and such other persons and entities as the Secretary considers appropriate.

''(c) REGULATIONS.—(1) The Secretary shall prescribe regulations for the administration of this chapter.

''(2) Any regulations prescribed by the Secretary of Defense for purposes of this chapter shall apply uniformly across the Armed Forces.

''§ 3324. Allocation of administration and costs

''(a) ADMINISTRATION.—Except as otherwise provided in this chapter, the Secretary shall administer the provision of educational assistance under this chapter.

''(b) COSTS.—Payments for entitlement to educational assistance earned under this chapter shall be made from funds appropriated to, or otherwise made available to, the Department of Veterans Affairs for the payment of readjustment benefits.''.

(2) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of title 38, United States Code, and at the beginning of part III of such title, are each amended by inserting after the item relating to chapter 32 the following new item:

''33. Post-9/11 Educational Assistance 3301''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS RELATING TO DUPLICATION OF BENEFITS.—

(A) Section 3033 of title 38, United States Code, is amended—

(i) in subsection (a)(1), by inserting ''33,'' after ''32,''; and

(ii) in subsection (c), by striking ''both the program established by this chapter and the program established by chapter 106 of title 10'' and inserting ''two or more of the programs established by this chapter, chapter 33 of this title, and chapters 1606 and 1607 of title 10''.

(B) Paragraph (4) of section 3695(a) of such title is amended to read as follows:

''(4) Chapters 30, 32, 33, 34, 35, and 36 of this title.''.

(C) Section 16163(e) of title 10, United States Code, is amended by inserting ''33,'' after ''32,''.

(2) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Title 38, United States Code, is further amended by inserting ''33,'' after ''32,'' each place it appears in the following provisions:

(i) In subsections (b) and (e)(1) of section 3485.

(ii) In section 3688(b).

(iii) In subsections (a)(1), (c)(1), (c)(1)(G), (d), and (e)(2) of section 3689.

(iv) In section 3690(b)(3)(A).

(v) In subsections (a) and (b) of section 3692.

(vi) In section 3697(a).

(B) Section 3697A(b)(1) of such title is amended by striking ''or 32'' and inserting ''32, or 33''.

(c) APPLICABILITY TO INDIVIDUALS UNDER MONTGOMERY GI BILL PROGRAM.—

(1) INDIVIDUALS ELIGIBLE TO ELECT PARTICIPATION IN POST-9/11 EDUCATIONAL ASSISTANCE.—An individual may elect to receive educational assistance under chapter 33 of title 38, United States Code (as added by subsection (a)), if such individual—

(A) as of August 1, 2009—

(i) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, and has used, but retains unused, entitlement under that chapter;

(ii) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, and has used, but retains unused, entitlement under the applicable chapter;

(iii) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, but has not used any entitlement under that chapter;

(iv) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, but has not used any entitlement under such chapter;

(v) is a member of the Armed Forces who is eligible for receipt of basic educational assistance under chapter 30 of title 38, United States Code, and is making contributions toward such assistance under section 3011(b) or 3012(c) of such title; or

(vi) is a member of the Armed Forces who is not entitled to basic educational assistance under chapter 30 of title 38, United States Code, by reason of an election under section 3011(c)(1) or 3012(d)(1) of such title; and

(B) as of the date of the individual's election under this paragraph, meets the requirements for entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added).

(2) CESSATION OF CONTRIBUTIONS TOWARD GI BILL.—Effective as of the first month beginning on or after the date of an election under paragraph (1) of an individual described by subparagraph (A)(v) of that paragraph, the obligation of the individual to make contributions under section 3011(b) or 3012(c) of title 38, United States Code, as applicable, shall cease, and the requirements of such section shall be deemed to be no longer applicable to the individual.

(3) REVOCATION OF REMAINING TRANSFERRED ENTITLEMENT.—

(A) ELECTION TO REVOKE.—If, on the date an individual described in subparagraph (A)(i) or (A)(iii) of paragraph (1) makes an election under that paragraph, a transfer of the entitlement of the individual to basic educational assistance under section 3020 of title 38, United States Code, is in effect and a number of months of the entitlement so transferred remain unutilized, the individual may elect to revoke all or a portion of the entitlement so transferred that remains unutilized.

(B) AVAILABILITY OF REVOKED ENTITLEMENT.—Any entitlement revoked by an individual under this paragraph shall no longer be available to the dependent to whom transferred, but shall be available to the individual instead for educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of this subsection.

(C) AVAILABILITY OF UNREVOKED ENTITLEMENT.—Any entitlement described in subparagraph (A) that is not revoked by an individual in accordance with that subparagraph shall remain available to the dependent or dependents concerned in accordance with the current transfer of such entitlement under section 3020 of title 38, United States Code.

(4) POST-9/11 EDUCATIONAL ASSISTANCE.—

(A) IN GENERAL.—Subject to subparagraph (B) and except as provided in paragraph (5), an individual making an election under paragraph (1) shall be entitled to educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of such chapter, instead of basic educational assistance under chapter 30 of title 38, United States Code, or educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, as applicable.

(B) LIMITATION ON ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual making an election under paragraph (1) who is described by subparagraph (A)(i) of that paragraph, the number of months of entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), shall be the number of months equal to—

(i) the number of months of unused entitlement of the individual under chapter 30 of title 38, United States Code, as of the date of the election, plus

(ii) the number of months, if any, of entitlement revoked by the individual under paragraph (3)(A).

(5) CONTINUING ENTITLEMENT TO EDUCATIONAL ASSISTANCE NOT AVAILABLE UNDER 9/11 ASSISTANCE PROGRAM.—

(A) IN GENERAL.—In the event educational assistance to which an individual making an election under paragraph (1) would be entitled under chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable, is not authorized to be available to the individual under the provisions of chapter 33 of title 38, United States Code (as so added), the individual shall remain entitled to such educational assistance in accordance with the provisions of the applicable chapter.

(B) CHARGE FOR USE OF ENTITLEMENT.—The utilization by an individual of entitlement under subparagraph (A) shall be chargeable against the entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), at the rate of one month of entitlement under such chapter 33 for each month of entitlement utilized by the individual under subparagraph (A) (as determined as if such entitlement were utilized under the provisions of chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable).

(6) ADDITIONAL POST-9/11 ASSISTANCE FOR MEMBERS HAVING MADE CONTRIBUTIONS TOWARD GI BILL.—

(A) ADDITIONAL ASSISTANCE.—In the case of an individual making an election under paragraph (1) who is described by clause (i), (iii), or (v) of subparagraph (A) of that paragraph, the amount of educational assistance payable to the individual under chapter 33 of title 38, United States Code (as so added), as a monthly stipend payable under paragraph (1)(B) of section 3313(c) of such title (as so added), or under paragraphs (2) through (7) of that section (as applicable), shall be the amount otherwise payable as a monthly stipend under the applicable paragraph increased by the amount equal to—

(i) the total amount of contributions toward basic educational assistance made by the individual under section 3011(b) or 3012(c) of title 38, United States Code, as of the date of the election, multiplied by

(ii) the fraction—

(I) the numerator of which is—

(aa) the number of months of entitlement to basic educational assistance under chapter 30 of title 38, United States Code, remaining to the individual at the time of the election; plus

(bb) the number of months, if any, of entitlement under such chapter 30 revoked by the individual under paragraph (3)(A); and

(II) the denominator of which is 36 months.

(B) MONTHS OF REMAINING ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual covered by subparagraph (A) who is described by paragraph (1)(A)(v), the number of months of entitlement to basic educational assistance remaining to the individual for purposes of subparagraph (A)(ii)(I)(aa) shall be 36 months.

(C) TIMING OF PAYMENT.—The amount payable with respect to an individual under subparagraph (A) shall be paid to the individual together with the last payment of the monthly stipend payable to the individual under paragraph (1)(B) of section 3313(c) of title 38, United States Code (as so added), or under paragraphs (2) through (7) of that section (as applicable), before the exhaustion of the individual's entitlement to educational assistance under chapter 33 of such title (as so added).

(7) CONTINUING ENTITLEMENT TO ADDITIONAL ASSISTANCE FOR CRITICAL SKILLS OR SPECIALITY AND ADDITIONAL SERVICE.—An individual making an election under paragraph (1)(A) who, at the time of the election, is entitled to increased educational assistance under section 3015(d) of title 38, United States Code, or section 16131(i) of title 10, United States Code, or supplemental educational assistance under subchapter III of chapter 30 of title 38, United States Code, shall remain entitled to such increased educational assistance or supplemental educational assistance in the utilization of entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added), in an amount equal to the quarter, semester, or term, as applicable, equivalent of the monthly amount of such increased educational assistance or supplemental educational assistance payable with respect to the individual at the time of the election.

(8) IRREVOCABILITY OF ELECTIONS.—An election under paragraph (1) or (3)(A) is irrevocable.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on August 1, 2009.

SEC. 4004. INCREASE IN AMOUNTS OF BASIC EDUCATIONAL ASSISTANCE UNDER THE MONTGOMERY GI BILL.

(a) EDUCATIONAL ASSISTANCE BASED ON THREE-YEAR PERIOD OF OBLIGATED SERVICE.—Subsection (a)(1) of section 3015 of title 38, United States Code, is amended—

(1) by striking subparagraphs (A) through (C) and inserting the following new subparagraph:

''(A) for months occurring during the period beginning on August 1, 2008, and ending on the last day of fiscal year 2009, $1,321; and''; and

(2) by redesignating subparagraph (D) as subparagraph (B).

(b) EDUCATIONAL ASSISTANCE BASED ON TWO-YEAR PERIOD OF OBLIGATED SERVICE.—Subsection (b)(1) of such section is amended—

(1) by striking subparagraphs (A) through (C) and inserting the following new subparagraph:

''(A) for months occurring during the period beginning on August 1, 2008, and ending on the last day of fiscal year 2009, $1,073; and''; and

(2) by redesignating subparagraph (D) as subparagraph (B).

(c) MODIFICATION OF MECHANISM FOR COST-OF-LIVING ADJUSTMENTS.—Subsection (h)(1) of such section is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

''(A) the average cost of undergraduate tuition in the United States, as determined by the National Center for Education Statistics, for the last academic year preceding the beginning of the fiscal year for which the increase is made, exceeds

''(B) the average cost of undergraduate tuition in the United States, as so determined, for the academic year preceding the academic year described in subparagraph (A).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on August 1, 2008.

(2) NO COST-OF-LIVING ADJUSTMENT FOR FISCAL YEAR 2009.—The adjustment required by subsection (h) of section 3015 of title 38, United States Code (as amended by this section), in rates of basic educational assistance payable under subsections (a) and (b) of such section (as so amended) shall not be made for fiscal year 2009.

SEC. 4005. MODIFICATION OF AMOUNT AVAILABLE FOR REIMBURSEMENT OF STATE AND LOCAL AGENCIES ADMINISTERING VETERANS EDUCATION BENEFITS.

Section 3674(a)(4) of title 38, United States Code, is amended by striking ''may not exceed'' and all that follows through the end and inserting ''shall be $19,000,000.''.

TITLE V—EMERGENCY UNEMPLOYMENT COMPENSATION

FEDERAL-STATE AGREEMENTS

SEC. 5001. (a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the ''Secretary''). Any State which is a party to an agreement under this title may, upon providing 30 days written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of emergency unemployment compensation to individuals who—

(1) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before May 1, 2007);

(2) have no rights to regular compensation or extended compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (except as provided under subsection (e)); and

(3) are not receiving compensation with respect to such week under the unemployment compensation law of Canada.

(c) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1), an individual shall be deemed to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period; or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT, ETC.—For purposes of any agreement under this title—

(1) the amount of emergency unemployment compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to such individual during such individual's benefit year under the State law for a week of total unemployment;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for emergency unemployment compensation and the payment thereof, except where otherwise inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of emergency unemployment compensation payable to any individual for whom an emergency unemployment compensation account is established under section 5002 shall not exceed the amount established in such account for such individual.

(e) ELECTION BY STATES.—Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State that is in an extended benefit period may provide for the payment of emergency unemployment compensation prior to extended compensation to individuals who otherwise meet the requirements of this section.

EMERGENCY UNEMPLOYMENT COMPENSATION ACCOUNT

SEC. 5002. (a) IN GENERAL.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for emergency unemployment compensation, an emergency unemployment compensation account with respect to such individual's benefit year.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the lesser of—

(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under such law, or

(B) 13 times the individual's average weekly benefit amount for the benefit year.

(2) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

(c) SPECIAL RULE.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, if, at the time that the individual's account is exhausted or at any time thereafter, such individual's State is in an extended benefit period (as determined under paragraph (2)), then, such account shall be augmented by an amount equal to the amount originally established in such account (as determined under subsection (b)(1)).

(2) EXTENDED BENEFIT PERIOD.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if—

(A) such a period is then in effect for such State under the Federal-State Extended Unemployment Compensation Act of 1970;

(B) such a period would then be in effect for such State under such Act if section 203(d) of such Act—

(i) were applied by substituting ''4'' for ''5'' each place it appears; and

(ii) did not include the requirement under paragraph (1)(A); or

(C) such a period would then be in effect for such State under such Act if—

(i) section 203(f) of such Act were applied to such State (regardless of whether the State by law had provided for such application); and

(ii) such section 203(f)—

(I) were applied by substituting ''6.0'' for ''6.5'' in paragraph (1)(A)(i); and

(II) did not include the requirement under paragraph (1)(A)(ii).

PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF EMERGENCY UNEMPLOYMENT COMPENSATION

SEC. 5003. (a) GENERAL RULE.—There shall be paid to each State that has entered into an agreement under this title an amount equal to 100 percent of the emergency unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) TREATMENT OF REIMBURSABLE COMPENSATION.—No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

(c) DETERMINATION OF AMOUNT.—Sums payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

FINANCING PROVISIONS

SEC. 5004. (a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a)) of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a)) shall be used for the making of payments to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of

the Treasury for payment to each State the sums payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the Government Accountability Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as so established) to the account of such State in the Unemployment Trust Fund (as so established).

(c) ASSISTANCE TO STATES.—There are appropriated out of the employment security administration account (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a)) of the Unemployment Trust Fund, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act (42 U.S.C. 501 et seq.)) in meeting the costs of administration of agreements under this title.

(d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

FRAUD AND OVERPAYMENTS

SEC. 5005. (a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of emergency unemployment compensation under this title to which such individual was not entitled, such individual—

(1) shall be ineligible for further emergency unemployment compensation under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of individuals who have received amounts of emergency unemployment compensation under this title to which they were not entitled, the State shall require such individuals to repay the amounts of such emergency unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such emergency unemployment compensation was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any emergency unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any State or Federal unemployment compensation law administered by the State agency or under any other State or Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the emergency unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

DEFINITIONS

SEC. 5006. In this title, the terms ''compensation'', ''regular compensation'', ''extended compensation'', ''benefit year'', ''base period'', ''State'', ''State agency'', ''State law'', and ''week'' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

APPLICABILITY

SEC. 5007. (a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending on or before March 31, 2009.

(b) TRANSITION FOR AMOUNT REMAINING IN ACCOUNT.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), in the case of an individual who has amounts remaining in an account established under section 5002 as of the last day of the last week (as determined in accordance with the applicable State law) ending on or before March 31, 2009, emergency unemployment compensation shall continue to be payable to such individual from such amounts for any week beginning after such last day for which the individual meets the eligibility requirements of this title.

(2) LIMIT ON AUGMENTATION.—If the account of an individual is exhausted after the last day of such last week (as so determined), then section 5002(c) shall not apply and such account shall not be augmented under such section, regardless of whether such individual's State is in an extended benefit period (as determined under paragraph (2) of such section).

(3) LIMIT ON COMPENSATION.—No compensation shall be payable by reason of paragraph (1) for any week beginning after June 30, 2009.

TITLE VI—OTHER HEALTH MATTERS

SEC. 6001. (a) MORATORIA ON CERTAIN MEDICAID REGULATIONS.—

(1) EXTENSION OF CERTAIN MORATORIA IN PUBLIC LAW 110–28.—Section 7002(a)(1) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28) is amended—

(A) by striking ''prior to the date that is 1 year after the date of enactment of this Act'' and inserting ''prior to April 1, 2009'';

(B) in subparagraph (A), by inserting after ''Federal Regulations)'' the following: ''or in the final regulation, relating to such parts, published on May 29, 2007 (72 Federal Register 29748)''; and

(C) in subparagraph (C), by inserting before the period at the end the following: '', including the proposed regulation published on May 23, 2007 (72 Federal Register 28930)''.

(2) EXTENSION OF CERTAIN MORATORIA IN PUBLIC LAW 110–173.—Section 206 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is amended—

(A) by striking ''June 30, 2008'' and inserting ''April 1, 2009'';

(B) by inserting '', including the proposed regulation published on August 13, 2007 (72 Federal Register 45201),'' after ''rehabilitation services''; and

(C) by inserting '', including the final regulation published on December 28, 2007 (72 Federal Register 73635),'' after ''school-based transportation''.

(3) MORATORIUM ON INTERIM FINAL MEDICAID REGULATION RELATING TO OPTIONAL CASE MANAGEMENT AND TARGETED CASE MANAGEMENT SERVICES.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, finalize, implement, enforce, or otherwise take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to impose any restrictions relating to the interim final regulation relating to optional State plan case management services and targeted case management services under the Medicaid program published on December 4, 2007 (72 Federal Register 68077) in its entirety.

(4) ADDITIONAL MORATORIA.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to impose any restrictions relating to a provision described in subparagraph (B) or (C) if such restrictions are more restrictive in any aspect than those applied to the respective provision as of the date specified in subparagraph (D) for such provision.

(B) PROPOSED REGULATION RELATING TO REDEFINITION OF MEDICAID OUTPATIENT HOSPITAL SERVICES.—The provision described in this subparagraph is the proposed regulation relating to clarification of outpatient clinic and hospital facility services definition and upper payment limit under the Medicaid program published on September 28, 2007 (72 Federal Register 55158) in its entirety.

(C) PORTION OF PROPOSED REGULATION RELATING TO MEDICAID ALLOWABLE PROVIDER TAXES.—

(i) IN GENERAL.—Subject to clause (ii), the provision described in this subparagraph is the final regulation relating to health-care-related taxes under the Medicaid program published on February 22, 2008 (73 Federal Register 9685) in its entirety.

(ii) EXCEPTION.—The provision described in this subparagraph does not include the portions of such regulation as relate to the following:

(I) REDUCTION IN THRESHOLD.—The reduction from 6 percent to 5.5 percent in the threshold applied under section 433.68(f)(3)(i) of title 42, Code of Federal Regulations, for determining whether or not there is an indirect guarantee to hold a taxpayer harmless, as required to carry out section 1903(w)(4)(C)(ii) of the Social Security Act, as added by section 403 of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109–432).

(II) CHANGE IN DEFINITION OF MANAGED CARE.—The change in the definition of managed care as proposed in the revision of section 433.56(a)(8) of title 42, Code of Federal

Regulations, as required to carry out section 1903(w)(7)(A)(viii) of the Social Security Act, as amended by section 6051 of the Deficit Reduction Act of 2005 (Public Law 109–171).

(D) DATE SPECIFIED.—The date specified in this subparagraph for the provision described in—

(i) subparagraph (B) is September 27, 2007; or

(ii) subparagraph (C) is February 21, 2008.

(b) RESTORATION OF ACCESS TO NOMINAL DRUG PRICING FOR CERTAIN CLINICS AND HEALTH CENTERS.—

(1) IN GENERAL.—Section 1927(c)(1)(D) of the Social Security Act (42 U.S.C. §1396r–8(c)(1)(D)), as added by section 6001(d)(2) of the Deficit Reduction Act of 2005 (Public Law 109–171), is amended—

(A) in clause (i)—

(i) by redesignating subclause (IV) as subclause (VI); and

(ii) by inserting after subclause (III) the following:

''(IV) An entity that—

''(aa) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Act or is State-owned or operated; and

''(bb) would be a covered entity described in section 340(B)(a)(4) of the Public Health Service Act insofar as the entity provides the same type of services to the same type of populations as a covered entity described in such section provides, but does not receive funding under a provision of law referred to in such section.

''(V) A public or nonprofit entity, or an entity based at an institution of higher learning whose primary purpose is to provide health care services to students of that institution, that provides a service or services described under section 1001(a) of the Public Health Service Act.''; and

(B) by adding at the end the following new clause:

''(iv) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to alter any existing statutory or regulatory prohibition on services with respect to an entity described in subclause (IV) or (V) of clause (i), including the prohibition set forth in section 1008 of the Public Health Service Act.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendment made by section 6001(d)(2) of the Deficit Reduction Act of 2005.

(c) ASSET VERIFICATION THROUGH ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS.—

(1) ADDITION OF AUTHORITY.—Title XIX of the Social Security Act is amended by inserting after section 1939 the following new section:

''ASSET VERIFICATION THROUGH ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS

''SEC. 1940. (a) IMPLEMENTATION.—

''(1) IN GENERAL.—Subject to the provisions of this section, each State shall implement an asset verification program described in subsection (b), for purposes of determining or redetermining the eligibility of an individual for medical assistance under the State plan under this title.

''(2) PLAN SUBMITTAL.—In order to meet the requirement of paragraph (1), each State shall—

''(A) submit not later than a deadline specified by the Secretary consistent with paragraph (3), a State plan amendment under this title that describes how the State intends to implement the asset verification program; and

''(B) provide for implementation of such program for eligibility determinations and redeterminations made on or after 6 months after the deadline established for submittal of such plan amendment.

''(3) PHASE-IN.—

''(A) IN GENERAL.—

''(i) IMPLEMENTATION IN CURRENT ASSET VERIFICATION DEMO STATES.—The Secretary shall require those States specified in subparagraph (C) (to which an asset verification program has been applied before the date of the enactment of this section) to implement an asset verification program under this subsection by the end of fiscal year 2009.

''(ii) IMPLEMENTATION IN OTHER STATES.—The Secretary shall require other States to submit and implement an asset verification program under this subsection in such manner as is designed to result in the application of such programs, in the aggregate for all such other States, to enrollment of approximately, but not less than, the following percentage of enrollees, in the aggregate for all such other States, by the end of the fiscal year involved:

''(I) 12.5 percent by the end of fiscal year 2009.

''(II) 25 percent by the end of fiscal year 2010.

''(III) 50 percent by the end of fiscal year 2011.

''(IV) 75 percent by the end of fiscal year 2012.

''(V) 100 percent by the end of fiscal year 2013.

''(B) CONSIDERATION.—In selecting States under subparagraph (A)(ii), the Secretary shall consult with the States involved and take into account the feasibility of implementing asset verification programs in each such State.

''(C) STATES SPECIFIED.—The States specified in this subparagraph are California, New York, and New Jersey.

''(D) CONSTRUCTION.—Nothing in subparagraph (A)(ii) shall be construed as preventing a State from requesting, and the Secretary approving, the implementation of an asset verification program in advance of the deadline otherwise established under such subparagraph.

''(4) EXEMPTION OF TERRITORIES.—This section shall only apply to the 50 States and the District of Columbia.

''(b) ASSET VERIFICATION PROGRAM.—

''(1) IN GENERAL.—For purposes of this section, an asset verification program means a program described in paragraph (2) under which a State—

''(A) requires each applicant for, or recipient of, medical assistance under the State plan under this title on the basis of being aged, blind, or disabled to provide authorization by such applicant or recipient (and any other person whose resources are required by law to be disclosed to determine the eligibility of the applicant or recipient for such assistance) for the State to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act of 1978 but at no cost to the applicant or recipient) from any financial institution (within the meaning of section 1101(1) of such Act) any financial record (within the meaning of section 1101(2) of such Act) held by the institution with respect to the applicant or recipient (and such other person, as applicable), whenever the State determines the record is needed in connection with a determination with respect to such eligibility for (or the amount or extent of) such medical assistance; and

''(B) uses the authorization provided under subparagraph (A) to verify the financial resources of such applicant or recipient (and such other person, as applicable), in order to determine or redetermine the eligibility of such applicant or recipient for medical assistance under the State plan.

''(2) PROGRAM DESCRIBED.—A program described in this paragraph is a program for verifying individual assets in a manner consistent with the approach used by the Commissioner of Social Security under section 1631(e)(1)(B)(ii).

''(c) DURATION OF AUTHORIZATION.—Notwithstanding section 1104(a)(1) of the Right to Financial Privacy Act of 1978, an authorization provided to a State under subsection (b)(1)(A) shall remain effective until the earliest of—

''(1) the rendering of a final adverse decision on the applicant's application for medical assistance under the State's plan under this title;

''(2) the cessation of the recipient's eligibility for such medical assistance; or

''(3) the express revocation by the applicant or recipient (or such other person described in subsection (b)(1)(A), as applicable) of the authorization, in a written notification to the State.

''(d) TREATMENT OF RIGHT TO FINANCIAL PRIVACY ACT REQUIREMENTS.—

''(1) An authorization obtained by the State under subsection (b)(1) shall be considered to meet the requirements of the Right to Financial Privacy Act of 1978 for purposes of section 1103(a) of such Act, and need not be furnished to the financial institution, notwithstanding section 1104(a) of such Act.

''(2) The certification requirements of section 1103(b) of the Right to Financial Privacy Act of 1978 shall not apply to requests by the State pursuant to an authorization provided under subsection (b)(1).

''(3) A request by the State pursuant to an authorization provided under subsection (b)(1) is deemed to meet the requirements of section 1104(a)(3) of the Right to Financial Privacy Act of 1978 and of section 1102 of such Act, relating to a reasonable description of financial records.

''(e) REQUIRED DISCLOSURE.—The State shall inform any person who provides authorization pursuant to subsection (b)(1)(A) of the duration and scope of the authorization.

''(f) REFUSAL OR REVOCATION OF AUTHORIZATION.—If an applicant for, or recipient of, medical assistance under the State plan under this title (or such other person described in subsection (b)(1)(A), as applicable) refuses to provide, or revokes, any authorization made by the applicant or recipient (or such other person, as applicable) under subsection (b)(1)(A) for the State to obtain from any financial institution any financial record, the State may, on that basis, determine that the applicant or recipient is ineligible for medical assistance.

''(g) USE OF CONTRACTOR.—For purposes of implementing an asset verification program under this section, a State may select and enter into a contract with a public or private entity meeting such criteria and qualifications as the State determines appropriate, consistent with requirements in regulations relating to general contracting provisions and with section 1903(i)(2). In carrying out activities under such contract, such an entity shall be subject to the same requirements and limitations on use and disclosure of information as would apply if the State were to carry out such activities directly.

''(h) TECHNICAL ASSISTANCE.—The Secretary shall provide States with technical assistance to aid in implementation of an asset verification program under this section.

''(i) REPORTS.—A State implementing an asset verification program under this section shall furnish to the Secretary such reports concerning the program, at such times, in such format, and containing such information as the Secretary determines appropriate.

''(j) TREATMENT OF PROGRAM EXPENSES.—Notwithstanding any other provision of law, reasonable expenses of States in carrying out

the program under this section shall be treated, for purposes of section 1903(a), in the same manner as State expenditures specified in paragraph (7) of such section.''.

(2) STATE PLAN REQUIREMENTS.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (69) by striking ''and'' at the end;

(B) in paragraph (70) by striking the period at the end and inserting ''; and''; and

(C) by inserting after paragraph (70), as so amended, the following new paragraph:

''(71) provide that the State will implement an asset verification program as required under section 1940.''.

(3) WITHHOLDING OF FEDERAL MATCHING PAYMENTS FOR NONCOMPLIANT STATES.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(A) in paragraph (22) by striking ''or'' at the end;

(B) in paragraph (23) by striking the period at the end and inserting ''; or''; and

(C) by adding after paragraph (23) the following new paragraph:

''(24) if a State is required to implement an asset verification program under section 1940 and fails to implement such program in accordance with such section, with respect to amounts expended by such State for medical assistance for individuals subject to asset verification under such section, unless—

''(A) the State demonstrates to the Secretary's satisfaction that the State made a good faith effort to comply;

''(B) not later than 60 days after the date of a finding that the State is in noncompliance, the State submits to the Secretary (and the Secretary approves) a corrective action plan to remedy such noncompliance; and

''(C) not later than 12 months after the date of such submission (and approval), the State fulfills the terms of such corrective action plan.''.

(4) REPEAL.—Section 4 of Public Law 110–90 is repealed.

SEC. 6002. LIMITATION ON MEDICARE EXCEPTION TO THE PROHIBITION ON CERTAIN PHYSICIAN REFERRALS FOR HOSPITALS.—

(a) IN GENERAL.—Section 1877 of the Social Security Act (42 U.S.C. 1395nn) is amended—

(1) in subsection (d)(2)—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(C) in the case where the entity is a hospital, the hospital meets the requirements of paragraph (3)(D).'';

(2) in subsection (d)(3)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(D) the hospital meets the requirements described in subsection (i)(1) not later than 18 months after the date of the enactment of this subparagraph.''; and

(3) by adding at the end the following new subsection:

''(i) REQUIREMENTS FOR HOSPITALS TO QUALIFY FOR HOSPITAL EXCEPTION TO OWNERSHIP OR INVESTMENT PROHIBITION.—

''(1) REQUIREMENTS DESCRIBED.—For purposes of subsection (d)(3)(D), the requirements described in this paragraph for a hospital are as follows:

''(A) PROVIDER AGREEMENT.—The hospital had—

''(i) physician ownership on September 1, 2008; and

''(ii) a provider agreement under section 1866 in effect on such date.

''(B) LIMITATION ON EXPANSION OF FACILITY CAPACITY.—Except as provided in paragraph (3), the number of operating rooms, procedure rooms, and beds of the hospital at any time on or after the date of the enactment of this subsection are no greater than the number of operating rooms, procedure rooms, and beds as of such date.

''(C) PREVENTING CONFLICTS OF INTEREST.—

''(i) The hospital submits to the Secretary an annual report containing a detailed description of—

''(I) the identity of each physician owner and any other owners of the hospital; and

''(II) the nature and extent of all ownership interests in the hospital.

''(ii) The hospital has procedures in place to require that any referring physician owner discloses to the patient being referred, by a time that permits the patient to make a meaningful decision regarding the receipt of care, as determined by the Secretary—

''(I) the ownership interest of such referring physician in the hospital; and

''(II) if applicable, any such ownership interest of the treating physician.

''(iii) The hospital does not condition any physician ownership interests either directly or indirectly on the physician owner making or influencing referrals to the hospital or otherwise generating business for the hospital.

''(iv) The hospital discloses the fact that the hospital is partially owned by physicians—

''(I) on any public website for the hospital; and

''(II) in any public advertising for the hospital.

''(D) ENSURING BONA FIDE INVESTMENT.—

''(i) Physician owners in the aggregate do not own more than the greater of—

''(I) 40 percent of the total value of the investment interests held in the hospital or in an entity whose assets include the hospital; or

''(II) the percentage of such total value determined on the date of enactment of this subsection.

''(ii) Any ownership or investment interests that the hospital offers to a physician owner are not offered on more favorable terms than the terms offered to a person who is not a physician owner.

''(iii) The hospital (or any investors in the hospital) does not directly or indirectly provide loans or financing for any physician owner investments in the hospital.

''(iv) The hospital (or any investors in the hospital) does not directly or indirectly guarantee a loan, make a payment toward a loan, or otherwise subsidize a loan, for any individual physician owner or group of physician owners that is related to acquiring any ownership interest in the hospital.

''(v) Investment returns are distributed to each investor in the hospital in an amount that is directly proportional to the ownership interest of such investor in the hospital.

''(vi) Physician owners do not receive, directly or indirectly, any guaranteed receipt of or right to purchase other business interests related to the hospital, including the purchase or lease of any property under the control of other investors in the hospital or located near the premises of the hospital.

''(vii) The hospital does not offer a physician owner the opportunity to purchase or lease any property under the control of the hospital or any other investor in the hospital on more favorable terms than the terms offered to an individual who is not a physician owner.

''(E) PATIENT SAFETY.—

''(i) Insofar as the hospital admits a patient and does not have any physician available on the premises to provide services during all hours in which the hospital is providing services to such patient, before admitting the patient—

''(I) the hospital discloses such fact to a patient; and

''(II) following such disclosure, the hospital receives from the patient a signed acknowledgment that the patient understands such fact.

''(ii) The hospital has the capacity to—

''(I) provide assessment and initial treatment for patients; and

''(II) refer and transfer patients to hospitals with the capability to treat the needs of the patient involved.

''(F) LIMITATION ON APPLICATION TO CERTAIN CONVERTED FACILITIES.—The hospital was not converted from an ambulatory surgical center to a hospital on or after the date of enactment of this subsection.

''(2) PUBLICATION OF INFORMATION REPORTED.—The Secretary shall publish, and update on an annual basis, the information submitted by hospitals under paragraph (1)(C)(i) on the public Internet website of the Centers for Medicare & Medicaid Services.

''(3) EXCEPTION TO PROHIBITION ON EXPANSION OF FACILITY CAPACITY.—

''(A) PROCESS.—

''(i) ESTABLISHMENT.—The Secretary shall establish and implement a process under which an applicable hospital (as defined in subparagraph (E)) may apply for an exception from the requirement under paragraph (1)(B).

''(ii) OPPORTUNITY FOR COMMUNITY INPUT.—The process under clause (i) shall provide individuals and entities in the community that the applicable hospital applying for an exception is located with the opportunity to provide input with respect to the application.

''(iii) TIMING FOR IMPLEMENTATION.—The Secretary shall implement the process under clause (i) on November 1, 2009.

''(iv) REGULATIONS.—Not later than November 1, 2009, the Secretary shall promulgate regulations to carry out the process under clause (i).

''(B) FREQUENCY.—The process described in subparagraph (A) shall permit an applicable hospital to apply for an exception up to once every 2 years.

''(C) PERMITTED INCREASE.—

''(i) IN GENERAL.—Subject to clause (ii) and subparagraph (D), an applicable hospital granted an exception under the process described in subparagraph (A) may increase the number of operating rooms, procedure rooms, and beds of the applicable hospital above the baseline number of operating rooms, procedure rooms, and beds of the applicable hospital (or, if the applicable hospital has been granted a previous exception under this paragraph, above the number of operating rooms, procedure rooms, and beds of the hospital after the application of the most recent increase under such an exception).

''(ii) LIFETIME 100 PERCENT INCREASE LIMITATION.—The Secretary shall not permit an increase in the number of operating rooms, procedure rooms, and beds of an applicable hospital under clause (i) to the extent such increase would result in the number of operating rooms, procedure rooms, and beds of the applicable hospital exceeding 200 percent of the baseline number of operating rooms, procedure rooms, and beds of the applicable hospital.

''(iii) BASELINE NUMBER OF OPERATING ROOMS, PROCEDURE ROOMS, AND BEDS.—In this paragraph, the term 'baseline number of operating rooms, procedure rooms, and beds' means the number of operating rooms, procedure rooms, and beds of the applicable hospital as of the date of enactment of this subsection.

''(D) INCREASE LIMITED TO FACILITIES ON THE MAIN CAMPUS OF THE HOSPITAL.—Any increase in the number of operating rooms, procedure rooms, and beds of an applicable hospital pursuant to this paragraph may only occur in facilities on the main campus of the applicable hospital.

''(E) APPLICABLE HOSPITAL.—In this paragraph, the term ''applicable hospital'' means a hospital—

''(i) that is located in a county in which the percentage increase in the population during the most recent 5-year period (as of the date of the application under subparagraph (A)) is at least 150 percent of the percentage increase in the population growth of the State in which the hospital is located during that period, as estimated by Bureau of the Census;

''(ii) whose annual percent of total inpatient admissions that represent inpatient admissions under the program under title XIX is equal to or greater than the average percent with respect to such admissions for all hospitals located in the county in which the hospital is located;

''(iii) that does not discriminate against beneficiaries of Federal health care programs and does not permit physicians practicing at the hospital to discriminate against such beneficiaries;

''(iv) that is located in a State in which the average bed capacity in the State is less than the national average bed capacity; and

''(v) that has an average bed occupancy rate that is greater than the average bed occupancy rate in the State in which the hospital is located.

''(F) PROCEDURE ROOMS.—In this subsection, the term 'procedure rooms' includes rooms in which catheterizations, angiographies, angiograms, and endoscopies are performed, except such term shall not include emergency rooms or departments (exclusive of rooms in which catheterizations, angiographies, angiograms, and endoscopies are performed).

''(G) PUBLICATION OF FINAL DECISIONS.—Not later than 60 days after receiving a complete application under this paragraph, the Secretary shall publish in the Federal Register the final decision with respect to such application.

''(H) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of the process under this paragraph (including the establishment of such process).

''(4) COLLECTION OF OWNERSHIP AND INVESTMENT INFORMATION.—For purposes of subparagraphs (A)(i) and (D)(i) of paragraph (1), the Secretary shall collect physician ownership and investment information for each hospital.

''(5) PHYSICIAN OWNER DEFINED.—For purposes of this subsection, the term 'physician owner' means a physician (or an immediate family member of such physician) with a direct or an indirect ownership interest in the hospital.''.

(b) ENFORCEMENT.—

(1) ENSURING COMPLIANCE.—The Secretary of Health and Human Services shall establish policies and procedures to ensure compliance with the requirements described in subsection (i)(1) of section 1877 of the Social Security Act, as added by subsection (a)(3), beginning on the date such requirements first apply. Such policies and procedures may include unannounced site reviews of hospitals.

(2) AUDITS.—Beginning not later than January 1, 2010, the Secretary of Health and Human Services shall conduct audits to determine if hospitals violate the requirements referred to in paragraph (1).

SEC. 6003. Medicare Improvement Fund.—

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

''MEDICARE IMPROVEMENT FUND

''SEC. 1898. (a) ESTABLISHMENT.—The Secretary shall establish under this title a Medicare Improvement Fund (in this section referred to as the 'Fund') which shall be available to the Secretary to make improvements under the original fee-for-service program under parts A and B for individuals entitled to, or enrolled for, benefits under part A or enrolled under part B.

''(b) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Fund, for expenditures from the Fund for services furnished during fiscal year 2014, $3,340,000,000.

''(2) PAYMENT FROM TRUST FUNDS.—The amount specified under paragraph (1) shall be available to the Fund, as expenditures are made from the Fund, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines appropriate.

''(3) FUNDING LIMITATION.—Amounts in the Fund shall be available in advance of appropriations but only if the total amount obligated from the Fund does not exceed the amount available to the Fund under paragraph (1). The Secretary may obligate funds from the Fund only if the Secretary determines (and the Chief Actuary of the Centers for Medicare & Medicaid Services and the appropriate budget officer certify) that there are available in the Fund sufficient amounts to cover all such obligations incurred consistent with the previous sentence.''.

SEC. 6004. MORATORIUM ON AUGUST 17, 2007 CMS DIRECTIVE. Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, finalize, implement, enforce, or otherwise take any action to give effect to any or all components of the State Health Official Letter 07–001, dated August 17, 2007, issued by the Director of the Center for Medicaid and State Operations in the Centers for Medicare & Medicaid Services regarding certain requirements under the State Children's Health Insurance Program (CHIP) relating to the prevention of the substitution of health benefits coverage for children (commonly referred to as ''crowd-out'') and the enforcement of medical support orders (or to any similar administrative actions that reflect the same or similar policies set forth in such letter). Any change made on or after August 17, 2007, to a Medicaid or CHIP State plan or waiver to implement, conform to, or otherwise adhere to the requirements or policies in such letter shall not apply prior to April 1, 2009.

SEC. 6005. ADJUSTMENT TO PAQI FUND. Section 1848(l)(2) of the Social Security Act (42 U.S.C. 1395w–4(l)(2)), as amended by section 101(a)(2) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended—

(1) in subparagraph (A)(i)—

(A) in subclause (III), by striking ''$4,960,000,000'' and inserting ''$3,940,000,000''; and

(B) by adding at the end the following new subclause:

''(IV) For expenditures during 2014, an amount equal to $3,750,000,000.'';

(2) in subparagraph (A)(ii), by adding at the end the following new subclause:

''(IV) 2014.—The amount available for expenditures during 2014 shall only be available for an adjustment to the update of the conversion factor under subsection (d) for that year.''; and

(3) in subparagraph (B)—

(A) in clause (ii), by striking ''and'' at the end;

(B) in clause (iii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new clause:

''(iv) 2014 for payment with respect to physicians' services furnished during 2014.''.

TITLE VII—ACCOUNTABILITY AND COMPETITION IN GOVERNMENT CONTRACTING

CHAPTER 1—CLOSE THE CONTRACTOR FRAUD LOOPHOLE

SHORT TITLE

SEC. 7101. This chapter may be cited as the ''Close the Contractor Fraud Loophole Act''.

REVISION OF THE FEDERAL ACQUISITION REGULATION

SEC. 7102. The Federal Acquisition Regulation shall be amended within 180 days after the date of the enactment of this Act pursuant to FAR Case 2007–006 (as published at 72 Fed Reg. 64019, November 14, 2007) or any follow-on FAR case to include provisions that require timely notification by Federal contractors of violations of Federal criminal law or overpayments in connection with the award or performance of covered contracts or subcontracts, including those performed outside the United States and those for commercial items.

DEFINITION

SEC. 7103. In this chapter, the term ''covered contract'' means any contract in an amount greater than $5,000,000 and more than 120 days in duration.

CHAPTER 2—GOVERNMENT FUNDING TRANSPARENCY

SHORT TITLE

SEC. 7201. This chapter may be cited as the ''Government Funding Transparency Act of 2008''.

FINANCIAL DISCLOSURE REQUIREMENTS FOR CERTAIN RECIPIENTS OF FEDERAL AWARDS

SEC. 7202. (a) DISCLOSURE REQUIREMENTS.—Section 2(b)(1) of the Federal Funding Accountability and Transparency Act (Public Law 109–282; 31 U.S.C. 6101 note) is amended—

(1) by striking ''and'' at the end of subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following new subparagraph:

''(F) the names and total compensation of the five most highly compensated officers of the entity if—

''(i) the entity in the preceding fiscal year received—

''(I) 80 percent or more of its annual gross revenues in Federal awards; and

''(II) $25,000,000 or more in annual gross revenues from Federal awards; and

''(ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.''.

(b) REGULATIONS REQUIRED.—The Director of the Office of Management and Budget shall promulgate regulations to implement the amendment made by this chapter. Such regulations shall include a definition of ''total compensation'' that is consistent with regulations of the Securities and Exchange Commission at section 402 of part 229 of title 17 of the Code of Federal Regulations (or any subsequent regulation).

TITLE VIII—EMERGENCY AGRICULTURE RELIEF

SEC. 8001. DEFINITIONS.

In this title:

(1) AGRICULTURAL EMPLOYMENT.—The term ''agricultural employment'' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor

Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security.

(3) EMERGENCY AGRICULTURAL WORKER STATUS.—The term ''emergency agricultural worker status'' means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 8011(a).

(4) EMPLOYER.—The term ''employer'' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(5) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Homeland Security.

(6) WORK DAY.—The term ''work day'' means any day in which the individual is employed 5.75 or more hours in agricultural employment.

SEC. 8002. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act.

(b) EXCEPTION.—Sections 8021 and 8031 shall take effect on the date that is 1 year after the date of the enactment of this Act.

Subtitle A—Emergency Agricultural Workers

SEC. 8011. REQUIREMENTS FOR EMERGENCY AGRICULTURAL WORKER STATUS.

(a) REQUIREMENT TO GRANT EMERGENCY AGRICULTURAL WORKER STATUS.—Notwithstanding any other provision of law, the Secretary shall, pursuant to the requirements of this section, grant emergency agricultural worker status to an alien who qualifies under this section if the Secretary determines that the alien—

(1) during the 48-month period ending on December 31, 2007—

(A) performed agricultural employment in the United States for at least 863 hours or 150 work days; or

(B) earned at least $7,000 from agricultural employment;

(2) applied for emergency agricultural worker status during the 18-month application period beginning on the first day of the seventh month that begins after the date of the enactment of this Act;

(3) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under section 8014; and

(4) has not been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or damage to property in excess of $500.

(b) AUTHORIZED TRAVEL.—An alien who is granted emergency agricultural worker status is authorized to travel outside the United States (including commuting to the United States from a residence in a foreign country) in the same manner as an alien lawfully admitted for permanent residence.

(c) AUTHORIZED EMPLOYMENT.—The Secretary shall provide an alien who is granted emergency agricultural worker status an employment authorized endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(d) TERMINATION OF EMERGENCY AGRICULTURAL WORKER STATUS.—The Secretary shall terminate emergency agricultural worker status if—

(1) the Secretary determines that the alien is deportable;

(2) the Secretary finds, by a preponderance of the evidence, that the adjustment to emergency agricultural worker status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)));

(3) the alien—

(A) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under section 8014;

(B) is convicted of a felony or at least 3 misdemeanors committed in the United States;

(C) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500; or

(D) fails to pay any applicable Federal tax liability pursuant to section 8012(d); or

(4) the Secretary determines that the alien has not fulfilled the work requirement described in subsection (e) during any 1-year period in which the alien was in such status and the Secretary has not waived such requirement under subsection (e)(3).

(e) WORK REQUIREMENT.—

(1) IN GENERAL.—An alien shall perform at least 100 work days of agricultural employment per year to maintain emergency agricultural worker status under this section.

(2) PROOF.—An alien may demonstrate compliance with the requirement under paragraph (1) by submitting—

(A) the record of employment described in paragraph (4); or

(B) the documentation described in section 8013(c)(1).

(3) WAIVER FOR EXTRAORDINARY CIRCUMSTANCES.—

(A) IN GENERAL.—The Secretary may waive the requirement under paragraph (1) for any year in which the alien was unable to work in agricultural employment due to—

(i) pregnancy, injury, or disease, if the alien can establish such pregnancy, disabling injury, or disease through medical records;

(ii) illness, disease, or other special needs of a minor child, if the alien can establish such illness, disease, or special needs through medical records;

(iii) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time; or

(iv) termination from agricultural employment without just cause, if the alien establishes that he or she was unable to find alternative agricultural employment after a reasonable job search.

(B) LIMITATION.—A waiver granted under subparagraph (A)(iv) shall not be conclusive, binding, or admissible in a separate or subsequent action or proceeding between the employee and the employee's current or prior employer.

(4) RECORD OF EMPLOYMENT.—

(A) REQUIREMENT.—Each employer of an alien granted emergency agricultural worker status shall annually provide—

(i) a written record of employment to the alien; and

(ii) a copy of such record to the Secretary.

(B) CIVIL PENALTIES.—

(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted emergency agricultural worker status has failed to provide the record of employment required under subparagraph (A) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(f) REQUIRED FEATURES OF IDENTITY CARD.—The Secretary shall provide each alien granted emergency agricultural worker status, and the spouse and any child of each such alien residing in the United States, with a card that contains—

(1) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(2) biometric identifiers, including fingerprints and a digital photograph; and

(3) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(g) FINE.—An alien granted emergency agricultural worker status shall pay a fine of $250 to the Secretary.

(h) MAXIMUM NUMBER.—The Secretary may not issue more than 1,350,000 emergency agricultural worker cards during the 5-year period beginning on the date of the enactment of this Act.

(i) MAXIMUM LENGTH OF EMERGENCY AGRICULTURAL WORKER STATUS.—Emergency agricultural worker status granted under this section shall continue until the earlier of—

(1) the date on which such status is terminated pursuant to subsection (d); or

(2) 5 years after the date on which such status is granted.

SEC. 8012. TREATMENT OF ALIENS GRANTED EMERGENCY AGRICULTURAL WORKER STATUS.

(a) IN GENERAL.—Except as otherwise provided under this section, an alien granted emergency agricultural worker status (including a spouse or child granted derivative status) shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(b) INELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien granted emergency agricultural worker status (including a spouse or child granted derivative status) shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) while in such status.

(c) FEDERAL TAX LIABILITY APPLIES.—

(1) IN GENERAL.—An alien granted emergency agricultural worker status shall pay any applicable Federal tax liability, including penalties and interest, owed for any year during the period of employment required under section 8011(e) for which the statutory period for assessment of any deficiency for such taxes has not expired.

(2) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all taxes required under this subsection.

(d) TREATMENT OF SPOUSES AND MINOR CHILDREN.—

(1) GRANTING OF STATUS AND REMOVAL.—The Secretary shall grant derivative status to the alien spouse and any minor child residing in the United States of an alien granted emergency agricultural worker status and shall not remove such derivative spouse or child during the period in which the principal alien maintains such status, except as provided in paragraph (4). A grant of derivative status to such a spouse or child under this subparagraph shall not decrease the number of aliens who may receive emergency agricultural worker status under section 8011(h).

(2) TRAVEL.—The derivative spouse and any minor child of an alien granted emergency agricultural worker status may travel outside the United States in the same manner

as an alien lawfully admitted for permanent residence.

(3) EMPLOYMENT.—The derivative spouse of an alien granted emergency agricultural worker status may apply to the Secretary for a work permit to authorize such spouse to engage in any lawful employment in the United States while such alien maintains emergency agricultural worker status.

(4) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.—The Secretary shall deny an alien spouse or child adjustment of status under paragraph (1) and shall remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(A) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under section 8014;

(B) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(C) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(e) ADJUSTMENT OF STATUS.—Nothing in this Act may be construed to prevent an alien from seeking adjustment of status in accordance with any other provision of law if the alien is otherwise eligible for such adjustment of status.

SEC. 8013. APPLICATIONS.

(a) SUBMISSION.—Applications for emergency agricultural worker status may be submitted to—

(1) the Secretary, if the applicant is represented by an attorney or a nonprofit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(2) a qualified designated entity if the applicant consents to the forwarding of the application to the Secretary.

(b) QUALIFIED DESIGNATED ENTITY DEFINED.—In this section, the term ''qualified designated entity'' means—

(1) a qualified farm labor organization or an association of employers designated by the Secretary; or

(2) any such other person designated by the Secretary if the Secretary determines such person is qualified and has substantial experience, demonstrated competence, and a history of long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act (8 U.S.C. 1159, 1160, and 1255), the Act entitled ''An Act to adjust the status of Cuban refugees to that of lawful permanent residents of the United States, and for other purposes'', approved November 2, 1966 (Public Law 89–732; 8 U.S.C. 1255 note), Public Law 95–145 (8 U.S.C. 1255 note), or the Immigration Reform and Control Act of 1986 (Public Law 99–603; 100 Stat. 3359) or any amendment made by that Act.

(c) PROOF OF ELIGIBILITY.—

(1) IN GENERAL.—An alien may establish that the alien meets the requirement of subsections (a)(1) and (e)(1) of section 8011 through government employment records or records supplied by employers or collective bargaining organizations, and such other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(2) DOCUMENTATION OF WORK HISTORY.—

(A) BURDEN OF PROOF.—An alien applying for emergency agricultural worker status has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days required under section 8011(a)(1).

(B) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under subparagraph (A) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(C) SUFFICIENT EVIDENCE.—An alien may meet the burden of proof under subparagraph (A) to establish that the alien has performed the days or hours of work required under section 8011(a)(1) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(d) APPLICATIONS SUBMITTED TO QUALIFIED DESIGNATED ENTITIES.—

(1) REQUIREMENTS.—Each qualified designated entity shall agree—

(A) to forward to the Secretary an application submitted to that entity pursuant to subsection (a)(2) if the applicant has consented to such forwarding;

(B) not to forward to the Secretary any such application if the applicant has not consented to such forwarding; and

(C) to assist an alien in obtaining documentation of the alien's work history, if the alien requests such assistance.

(2) NO AUTHORITY TO MAKE DETERMINATIONS.—No qualified designated entity may make a determination required under this title to be made by the Secretary.

(e) LIMITATION ON ACCESS TO INFORMATION.—Files and records collected or compiled by a qualified designated entity for the purposes of this section are confidential and the Secretary shall not have access to such a file or record relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to subsection (f).

(f) CONFIDENTIALITY OF INFORMATION.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary or any other official or employee of the Department or a bureau or agency of the Department is prohibited from—

(A) using information furnished by the applicant pursuant to an application filed under this title, the information provided by an applicant to a qualified designated entity, or any information provided by an employer or former employer for any purpose other than to make a determination on the application or for imposing the penalties described in subsection (g);

(B) making any publication in which the information furnished by any particular individual can be identified; or

(C) permitting a person other than a sworn officer or employee of the Department or a bureau or agency of the Department or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(2) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished under this title or any other information derived from such furnished information to—

(A) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; and

(B) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(3) CONSTRUCTION.—

(A) IN GENERAL.—Nothing in this subsection shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes, of information contained in files or records of the Department pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(B) CRIMINAL CONVICTIONS.—Notwithstanding any other provision of this subsection, information concerning whether the alien applying for emergency agricultural worker status has been convicted of a crime at any time may be used or released for immigration enforcement or law enforcement purposes.

(4) CRIME.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this subsection shall be subject to a fine in an amount not to exceed $10,000.

(g) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(1) CRIMINAL PENALTY.—Any person who—

(A) files an application for emergency agricultural worker status and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or

(B) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(h) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for emergency agricultural worker status.

(i) APPLICATION FEES.—

(1) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(A) shall be charged for the filing of an application for emergency agricultural worker status; and

(B) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(2) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under paragraph (1)(B) for services provided to applicants.

(3) DISPOSITION OF FEES.—

(A) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the ''Agricultural Worker Immigration Status Adjustment Account''. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under paragraph (1)(A).

(B) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the ''Agricultural Worker Immigration Status Adjustment Account'' shall remain available to the Secretary until expended for processing applications for emergency agricultural worker status.

SEC. 8014. WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.

(a) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for emergency agricultural

worker status, the following rules shall apply:

(1) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(2) WAIVER OF OTHER GROUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(B) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C), (2)(D), (2)(G), (2)(H), (2)(I), (3), and (4) of such section 212(a) may not be waived by the Secretary under subparagraph (A).

(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(3) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for emergency agricultural worker status by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(b) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of the enactment of this Act, an alien who is apprehended before the beginning of the application period described in section 8011(a)(2) and who can establish a nonfrivolous case of eligibility for emergency agricultural worker status (but for the fact that the alien may not apply for such status until the beginning of such period)—

(A) may not be removed until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for such status; and

(B) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—An alien who presents a nonfrivolous application for emergency agricultural worker status during the application period described in section 8011(a)(2), including an alien who files such an application not later than 30 days after the alien's apprehension—

(A) may not be removed until a final determination on the application has been made in accordance with this section; and

(B) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

SEC. 8015. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for emergency agricultural worker status under this title.

(b) ADMINISTRATIVE REVIEW.—

(1) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(2) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(c) JUDICIAL REVIEW.—

(1) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(2) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

SEC. 8016. DISSEMINATION OF INFORMATION.

Beginning not later than the first day of the application period described in section 8011(a)(2), the Secretary, in cooperation with qualified designated entities (as that term is defined in section 8013(b)), shall broadly disseminate information respecting the benefits that aliens may receive under this title and the requirements that an alien is required to meet to receive such benefits.

SEC. 8017. RULEMAKING; EFFECTIVE DATE; AUTHORIZATION OF APPROPRIATIONS.

(a) RULEMAKING.—The Secretary shall issue regulations to implement this title not later than the first day of the seventh month that begins after the date of the enactment of this Act.

(b) EFFECTIVE DATE.—Except as otherwise provided, this title shall take effect on the date that regulations required under subsection (a) are issued, regardless of whether such regulations are issued on an interim basis or on any other basis.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal years 2008 and 2009 such sums as may be necessary to implement this title.

SEC. 8018. PRECLUSION OF SOCIAL SECURITY CREDITS FOR PERIODS WITHOUT WORK AUTHORIZATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by adding at the end the following:

''(d)(1) Except as provided in paragraph (2), for purposes of subsections (a) and (b), no quarter of coverage shall be credited for any calendar year beginning on or after January 1, 2004, with respect to an individual granted emergency agricultural worker status under section 8011 of the Emergency Agriculture Relief Act of 2008, unless the Commissioner of Social Security determines, on the basis of information provided to the Commissioner in accordance with an agreement under subsection (e) or otherwise, that the individual was authorized to be employed in the United States during such quarter.

''(2) Paragraph (1) shall not apply to an individual who was assigned a social security account number before January 1, 2004.

''(e) Not later than 180 days after the date of the enactment of this subsection, the Secretary of Homeland Security shall enter into an agreement with the Commissioner of Social Security to provide such information as the Commissioner determines necessary to carry out the limitation on crediting quarters of coverage under subsection (d).''.

(b) BENEFIT COMPUTATION.—Section 215(e) of the Social Security Act (42 U.S.C. 415(e)) is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) in computing the average indexed monthly earnings of an individual, wages or self-employment income shall not be counted for any year for which no quarter of coverage may be credited to such individual pursuant to section 214(d).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit applications filed on or after the date that is 180 days after the date of the enactment of this Act based on the wages or self-employment income of an individual with respect to whom a primary insurance amount has not been determined under title II of the Social Security Act (42 U.S.C. 401 et seq.) before such date.

SEC. 8019. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) IN GENERAL.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking ''or'' at the end;

(2) in subparagraph (C), by inserting ''or'' at the end;

(3) by inserting after subparagraph (C) the following:

''(D) who is granted emergency agricultural worker status under the Emergency Agriculture Relief Act of 2008,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted emergency agricultural worker status.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

Subtitle B—H–2A Worker Program

SEC. 8021. REFORM OF H–2A WORKER PROGRAM.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by striking section 218 and inserting the following:

''SEC. 218. H–2A EMPLOYER APPLICATIONS.

''(a) APPLICATIONS TO THE SECRETARY OF LABOR.—

''(1) IN GENERAL.—No alien may be admitted to the United States as an H–2A worker, or otherwise provided status as an H–2A worker, unless the employer has filed with the Secretary of Labor an application containing—

''(A) the assurances described in subsection (b);

''(B) a description of the nature and location of the work to be performed;

''(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

''(D) the number of job opportunities in which the employer seeks to employ the workers.

''(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

''(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

''(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

''(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

''(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

''(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

''(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

''(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer has applied for an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218A to all workers employed in the job opportunities for which the employer has applied for an H–2A worker under subsection (a) and to all other workers in the same occupation at the place of employment.

''(D) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer has applied for an H–2A worker.

''(E) REQUIREMENTS FOR PLACEMENT OF THE NONIMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

''(i) the nonimmigrant performs duties in whole or in part at 1 or more worksites owned, operated, or controlled by such other employer;

''(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

''(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

''(F) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

''(G) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(H) EMPLOYMENT OF UNITED STATES WORKERS.—

''(i) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H–2A nonimmigrant is, or H–2A nonimmigrants are, sought:

''(I) CONTACTING FORMER WORKERS.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

''(II) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on 'America's Job Bank' or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

''(III) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

''(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H–2A workers could not reasonably have been foreseen.

''(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrants are, sought and who will be available at the time and place of need.

''(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the H–2A worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the H–2A worker who is in the job was hired has elapsed, subject to the following requirements:

''(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H–2A workers in order to force the hiring of United States workers under this clause.

''(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

''(III) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

''(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

''(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

''(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218A, 218B, and 218C.

''(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

''(d) WITHDRAWAL OF APPLICATIONS.—

''(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

''(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

''(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H–2A workers under an offer of terms and

conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

''(e) REVIEW AND APPROVAL OF APPLICATIONS.—

''(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or worksite, a copy of each such application (and such accompanying documents as are necessary).

''(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

''(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under subsection (a). Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

''(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.''

''SEC. 218A. H–2A WORKER EMPLOYMENT REQUIREMENTS.

''(a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

''(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

''(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

''(A) IN GENERAL.—An employer applying under section 218(a) for H–2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

''(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

''(C) FAMILY HOUSING.—If it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

''(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

''(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

''(F) CHARGES FOR HOUSING.—

''(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

''(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

''(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

''(i) IN GENERAL.—If the requirement set out in clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

''(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers and H–2A workers who are seeking temporary housing while employed in agricultural work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

''(iii) AMOUNT OF ALLOWANCE.—

''(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(2) REIMBURSEMENT OF TRANSPORTATION.—

''(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

''(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

''(C) LIMITATION.—

''(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

''(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

''(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

''(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

''(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

''(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORKSITE.—The employer shall provide transportation between the worker's living quarters and the employer's worksite without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

''(3) REQUIRED WAGES.—

''(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

''(B) LIMITATION.—Effective on the date of the enactment of the Emergency Agriculture

Relief Act of 2008 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2008, as established by section 655.107 of title 20, Code of Federal Regulations.

''(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—If Congress does not set a new wage standard applicable to this section before March 1, 2012, the adverse effect wage rate for each State beginning on March 1, 2012 shall be the wage rate that would have resulted under the methodology in effect on January 1, 2008.

''(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

''(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

''(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

''(i) the worker's total earnings for the pay period;

''(ii) the worker's hourly rate of pay, piece rate of pay, or both;

''(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the ¾ guarantee described in paragraph (4);

''(iv) the hours actually worked by the worker;

''(v) an itemization of the deductions made from the worker's wages; and

''(vi) if piece rates of pay are used, the units produced daily.

''(G) REPORT ON WAGE PROTECTIONS.—Not later than December 31, 2010, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

''(i) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

''(v) recommendations for future wage protection under this section.

''(H) COMMISSION ON WAGE STANDARDS.—

''(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H–2A program (in this subparagraph referred to as the 'Commission').

''(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

''(I) Four representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

''(II) Four representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

''(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

''(I) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

''(V) recommendations for future wage protection under this section.

''(iv) FINAL REPORT.—Not later than December 31, 2010, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

''(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

''(4) GUARANTEE OF EMPLOYMENT.—

''(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least ¾ of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

''(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

''(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the '¾ guarantee' described in subparagraph (A).

''(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

''(5) MOTOR VEHICLE SAFETY.—

''(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

''(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H–2A employer that uses or causes to be used any vehicle to transport an H–2A worker within the United States.

''(ii) DEFINED TERM.—In this paragraph, the term 'uses or causes to be used'—

''(I) applies only to transportation provided by an H–2A employer to an H–2A worker, or by a farm labor contractor to an H–2A worker at the request or direction of an H–2A employer; and

''(II) does not apply to—

''(aa) transportation provided, or transportation arrangements made, by an H–2A worker, unless the employer specifically requested or arranged such transportation; or

''(bb) car pooling arrangements made by H–2A workers themselves, using 1 of the workers' own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

''(iii) CLARIFICATION.—Providing a job offer to an H–2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H–2A worker by an H–2A employer, shall not constitute an arrangement of, or participation in, such transportation.

''(iv) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H–2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

''(v) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

''(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

''(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

''(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

''(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

''(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H–2A worker.

''(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

''(iii) EFFECT OF WORKERS' COMPENSATION COVERAGE.—If the employer of any H–2A worker provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

''(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

''(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

''(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

''(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer's application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

''(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218B shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

''SEC. 218B. PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H–2A WORKERS.

''(a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

''(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

''(c) CRITERIA FOR ADMISSIBILITY.—

''(1) IN GENERAL.—An H–2A worker shall be considered admissible to the United States if the alien is otherwise admissible under this section, section 218, and section 218A, and the alien is not ineligible under paragraph (2).

''(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

''(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

''(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

''(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

''(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H–2A status, but may not be granted that status in the United States.

''(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

''(d) PERIOD OF ADMISSION.—

''(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the worksite and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

''(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

''(B) the total period of employment, including such 14-day period, may not exceed 10 months.

''(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

''(e) ABANDONMENT OF EMPLOYMENT.—

''(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H–2A worker prematurely abandons employment.

''(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

''(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

''(f) REPLACEMENT OF ALIEN.—

''(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker—

''(A) who abandons or prematurely terminates employment; or

''(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

''(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

''(g) IDENTIFICATION DOCUMENT.—

''(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify the alien's identity.

''(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

''(A) The document shall be capable of reliably determining whether—

''(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

''(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

''(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

''(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

''(C) The document shall—

''(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

''(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

''(h) EXTENSION OF STAY OF H–2A ALIENS IN THE UNITED STATES.—

''(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H–2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien's stay and a change in the alien's employment.

''(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

''(A) for a period of more than 10 months; or

''(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

''(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

''(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

''(B) DEFINITION.—For purposes of subparagraph (A), the term 'file' means sending the petition by certified mail via the United

States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

''(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

''(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

''(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

''(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

''(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H–2A worker (including any extensions) is 3 years.

''(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

''(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H–2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H–2A worker unless the alien has remained outside the United States for a continuous period equal to at least ⅕ the duration of the alien's previous period of authorized status as an H–2A worker (including any extensions).

''(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H–2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H–2A worker.

''(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, DAIRY WORKERS, OR HORSE WORKERS.—Notwithstanding any provision of the Emergency Agriculture Relief Act of 2008, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder, goat herder, dairy worker, or horse worker—

''(1) may be admitted for an initial period of 12 months;

''(2) subject to subsection (j)(5), may have such initial period of admission extended for a period of up to 3 years; and

''(3) shall not be subject to the requirements of subsection (h)(5) (relating to periods of absence from the United States).

''(j) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, DAIRY WORKERS, OR HORSE WORKERS.—

''(1) ELIGIBLE ALIEN.—For purposes of this subsection, the term 'eligible alien' means an alien—

''(A) having nonimmigrant status under section 101(a)(15)(H)(ii)(a) based on employment as a sheepherder, goat herder, dairy worker, or horse worker;

''(B) who has maintained such nonimmigrant status in the United States for a cumulative total of 36 months (excluding any period of absence from the United States); and

''(C) who is seeking to receive an immigrant visa under section 203(b)(3)(A)(iii).

''(2) CLASSIFICATION PETITION.—In the case of an eligible alien, the petition under section 204 for classification under section 203(b)(3)(A)(iii) may be filed by—

''(A) the alien's employer on behalf of the eligible alien; or

''(B) the eligible alien.

''(3) NO LABOR CERTIFICATION REQUIRED.—Notwithstanding section 203(b)(3)(C), no determination under section 212(a)(5)(A) is required with respect to an immigrant visa described in paragraph (1)(C) for an eligible alien.

''(4) EFFECT OF PETITION.—The filing of a petition described in paragraph (2) or an application for adjustment of status based on the approval of such a petition shall not constitute evidence of an alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(a).

''(5) EXTENSION OF STAY.—The Secretary shall extend the stay of an eligible alien having a pending or approved classification petition described in paragraph (2) in 1-year increments until a final determination is made on the alien's eligibility for adjustment of status to that of an alien lawfully admitted for permanent residence.

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an eligible alien from seeking adjustment of status in accordance with any other provision of law.

''SEC. 218C. WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT.

''(a) ENFORCEMENT AUTHORITY.—

''(1) INVESTIGATION OF COMPLAINTS.—

''(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

''(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (G). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

''(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

''(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

''(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

''(iii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 2 years.

''(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's application under section 218(a) or during the period of 30 days preceding such period of employment—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 3 years.

''(F) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of $90,000.

''(G) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218A(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218A(b) shall be equal to the difference between the amount that should

have been paid and the amount that actually was paid to such worker.

''(2) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218A.

''(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.—H–2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

''(1) The providing of housing or a housing allowance as required under section 218A(b)(1).

''(2) The reimbursement of transportation as required under section 218A(b)(2).

''(3) The payment of wages required under section 218A(b)(3) when due.

''(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218A(c), compliance with which shall be governed by the provisions of such laws.

''(5) The guarantee of employment required under section 218A(b)(4).

''(6) The motor vehicle safety requirements under section 218A(b)(5).

''(7) The prohibition of discrimination under subsection (d)(2).

''(c) PRIVATE RIGHT OF ACTION.—

''(1) MEDIATION.—Upon the filing of a complaint by an H–2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

''(A) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H–2A workers and agricultural employers without charge to the parties.

''(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other nonbinding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

''(C) AUTHORIZATION.—

''(i) IN GENERAL.—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service $500,000 for each fiscal year to carry out this section.

''(ii) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt.

''(2) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H–2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

''(3) ELECTION.—An H–2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

''(4) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this Act shall be construed to diminish the rights and remedies of an H–2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

''(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

''(6) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

''(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

''(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

''(7) WORKERS' COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

''(A) Notwithstanding any other provision of this section, where a State's workers' compensation law is applicable and coverage is provided for an H–2A worker, the workers' compensation benefits shall be the exclusive remedy for the loss of such worker under this section in the case of bodily injury or death in accordance with such State's workers' compensation law.

''(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

''(i) a recovery under a State workers' compensation law; or

''(ii) rights conferred under a State workers' compensation law.

''(8) TOLLING OF STATUTE OF LIMITATIONS.—If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of an H–2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H–2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

''(9) PRECLUSIVE EFFECT.—Any settlement by an H–2A worker and an H–2A employer or any person reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H–2A employer on behalf of an H–2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(d) DISCRIMINATION PROHIBITED.—

''(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218A or any rule or regulation pertaining to section 218 or 218A, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of section 218 or 218A or any rule or regulation pertaining to either of such sections.

''(2) DISCRIMINATION AGAINST H–2A WORKERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H–2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

''(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H–2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

''(f) ROLE OF ASSOCIATIONS.—

''(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of sections 218 and 218A, as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

''(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that an association member or members participated in or had knowledge, or reason to know of the violation, in which case the penalty shall be invoked against the association member or members as well.

''SEC. 218D. DEFINITIONS.

''For purposes of this section and section 218, 218A, 218B, and 218C:

''(1) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a).

''(2) BONA FIDE UNION.—The term 'bona fide union' means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

''(3) DISPLACE.—The term 'displace', in the case of an application with respect to 1 or more H–2A workers by an employer, means laying off a United States worker from a job for which the H–2A worker or workers is or are sought.

''(4) ELIGIBLE.—The term 'eligible', when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A).

''(5) EMPLOYER.—The term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

''(6) H–2A EMPLOYER.—The term 'H–2A employer' means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

''(7) H–2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

''(8) JOB OPPORTUNITY.—The term 'job opportunity' means a job opening for temporary or seasonal full-time employment at a place in the United States to which United States workers can be referred.

''(9) LAYING OFF.—

''(A) IN GENERAL.—The term 'laying off', with respect to a worker—

''(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218A(b)(4)(D)), or temporary suspension of employment due to weather, markets, or other temporary conditions; but

''(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

''(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

''(10) REGULATORY DROUGHT.—The term 'regulatory drought' means a decision subsequent to the filing of the application under section 218 by an entity not under the control of the employer making such filing which restricts the employer's access to water for irrigation purposes and reduces or limits the employer's ability to produce an agricultural commodity, thereby reducing the need for labor.

''(11) SEASONAL.—Labor is performed on a 'seasonal' basis if—

''(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

''(B) from its nature, it may not be continuous or carried on throughout the year.

''(12) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(13) TEMPORARY.—A worker is employed on a 'temporary' basis where the employment is intended not to exceed 10 months.

''(14) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a national of the United States, an alien lawfully admitted for permanent residence, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).''.

(b) TABLE OF CONTENTS.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 218 and inserting the following:

''Sec. 218. H–2A employer applications.
''Sec. 218A. H–2A worker employment requirements.
''Sec. 218B. Procedure for admission and extension of stay of H–2A workers.
''Sec. 218C. Worker protections and labor standards enforcement.
''Sec. 218D. Definitions.''.

(c) SUNSET.—The amendments made by this section shall be effective during the 5-year period beginning on the date that is 1 year after the date of the enactment of this Act. Any immigration benefit provided pursuant to such amendments shall expire at the end of such 5-year period.

Subtitle C—Miscellaneous Provisions

SEC. 8031. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens pursuant to the amendment made by section 8021(a) and a collection process for such fees from employers. Such fees shall be the only fees chargeable to employers for services provided under such amendment.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on the number of job opportunities indicated in the employer's application under section 218 of the Immigration and Nationality Act, as amended by section 8021, and sufficient to provide for the direct costs of providing services related to an employer's authorization to employ aliens pursuant to the amendment made by section 8021(a), to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment of the fees pursuant to the amendment made by section 8021(a) shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the costs of carrying out sections 218 and 218B of the Immigration and Nationality Act, as amended and added, respectively, by section 8021, and the provisions of this title.

SEC. 8032. RULEMAKING.

(a) REQUIREMENT FOR THE SECRETARY TO CONSULT.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture during the promulgation of all regulations to implement the duties of the Secretary under this title and the amendments made by this title.

(b) REQUIREMENT FOR THE SECRETARY OF STATE TO CONSULT.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this title and the amendments made by this title.

(c) REQUIREMENT FOR THE SECRETARY OF LABOR TO CONSULT.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this title and the amendments made by this title.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under sections 218, 218A, 218B, 218C, and 218D of the Immigration and Nationality Act, as amended or added by section 8021, shall take effect on the effective date of section 8021 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. 8033. REPORTS TO CONGRESS.

(a) ANNUAL REPORT.—Not later than September 30 of each year, the Secretary shall submit a report to Congress that identifies, for the previous year—

(1) the number of job opportunities approved for employment of aliens admitted under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), and the number of workers actually admitted, disaggregated by State and by occupation;

(2) the number of such aliens reported to have abandoned employment pursuant to subsection 218B(e)(2) of such Act;

(3) the number of such aliens who departed the United States within the period specified in subsection 218B(d) of such Act;

(4) the number of aliens who applied for adjustment of status pursuant to section 8011(a); and

(5) the number of such aliens whose status was adjusted under section 8011(a).

(b) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress a report that describes the measures being taken and the progress made in implementing this title.

TITLE IX

TELEWORK ENHANCEMENT ACT OF 2008

SECTION 9001. SHORT TITLE.

This Act may be cited as the ''Telework Enhancement Act of 2008''.

SEC. 9002. DEFINITIONS.

In this Act:

(1) EMPLOYEE.—The term ''employee'' has the meaning given that term by section 2105 of title 5, United States Code.

(2) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term by section 105 of title 5, United States Code.

(3) NONCOMPLIANT.—The term ''noncompliant'' means not conforming to the requirements under this Act.

(4) TELEWORK.—The term ''telework'' means a work arrangement in which an employee regularly performs officially assigned duties at home or other worksites geographically convenient to the residence of the employee during at least 20 percent of each pay period that the employee is performing officially assigned duties.

SEC. 9003. EXECUTIVE AGENCIES TELEWORK REQUIREMENT.

(a) TELEWORK ELIGIBILITY.—Not later than 180 days after the date of enactment of this Act, the head of each executive agency shall—

(1) establish a policy under which eligible employees of the agency may be authorized to telework;

(2) determine the eligibility for all employees of the agency to participate in telework; and

(3) notify all employees of the agency of their eligibility to telework.

(b) PARTICIPATION.—The policy described under subsection (a) shall—

(1) ensure that telework does not diminish employee performance or agency operations;

(2) require a written agreement between an agency manager and an employee authorized to telework in order for that employee to participate in telework;

(3) provide that an employee may not be authorized to telework if the performance of that employee does not comply with the terms of the written agreement between the agency manager and that employee;

(4) except in emergency situations as determined by an agency head, not apply to any employee of the agency whose official duties require daily physical presence for activity with equipment or handling of secure materials; and

(5) determine the use of telework as part of the continuity of operations plans the agency in the event of an emergency.

SEC. 9004. TRAINING AND MONITORING.

The head of each executive agency shall ensure that—

(1) an interactive telework training program is provided to—

(A) employees eligible to participate in the telework program of the agency; and

(B) all managers of teleworkers;

(2) no distinction is made between teleworkers and nonteleworkers for the purposes of performance appraisals; and

(3) when determining what constitutes diminished employee performance, the agency shall consult the established performance management guidelines of the Office of Personnel Management.

SEC. 9005. POLICY AND SUPPORT.

(a) AGENCY CONSULTATION WITH THE OFFICE OF PERSONNEL MANAGEMENT.—Each executive agency shall consult with the Office of Personnel Management in developing telework policies.

(b) GUIDANCE AND CONSULTATION.—The Office of Personnel Management shall—

(1) provide policy and policy guidance for telework in the areas of pay and leave, agency closure, performance management, official worksite, recruitment and retention, and accommodations for employees with disabilities; and

(2) consult with—

(A) the Federal Emergency Management Agency on policy and policy guidance for telework in the areas of continuation of operations and long-term emergencies; and

(B) the General Services Administration on policy and policy guidance for telework in the areas of telework centers, travel, technology, and equipment.

(c) CONTINUITY OF OPERATIONS PLANS.—During any period that an agency is operating under a continuity of operations plan, that plan shall supersede any telework policy.

(d) TELEWORK WEBSITE.—The Office of Personnel Management shall—

(1) maintain a central telework website; and

(2) include on that website related—

(A) telework links;

(B) announcements;

(C) guidance developed by the Office of Personnel Management; and

(D) guidance submitted by the Federal Emergency Management Agency, and the General Services Administration to the Office of Personnel Management not later than 10 business days after the date of submission.

SEC. 9006. TELEWORK MANAGING OFFICER.

(a) IN GENERAL.—

(1) APPOINTMENT.—The head of each executive agency shall appoint an employee of the agency as the Telework Managing Officer. The Telework Managing Officer shall be established within the Office of the Chief Human Capital Officer or a comparable office with similar functions.

(2) TELEWORK COORDINATORS.—

(A) APPROPRIATIONS ACT, 2004.—Section 627 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 99) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''appoint a Telework Managing Officer to be''.

(B) APPROPRIATIONS ACT, 2005.—Section 622 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2919) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''appoint a Telework Managing Officer to be''.

(b) DUTIES.—The Telework Managing Officer shall—

(1) be devoted to policy development and implementation related to agency telework programs;

(2) serve as—

(A) an advisor for agency leadership, including the Chief Human Capital Officer;

(B) a resource for managers and employees; and

(C) a primary agency point of contact for the Office of Personnel Management on telework matters; and

(3) perform other duties as the applicable appointing authority may assign.

SEC. 9007. ANNUAL REPORT TO CONGRESS.

(a) SUBMISSION OF REPORTS.—Not later than 18 months after the date of enactment of this Act and on an annual basis thereafter, the Director of the Office of Personnel Management shall—

(1) submit a report addressing the telework programs of each executive agency to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Oversight and Government Reform of the House of Representatives; and

(2) transmit a copy of the report to the Comptroller General and the Office of Management and Budget.

(b) CONTENTS.—Each report submitted under this section shall include—

(1) the telework policy, the measures in place to carry out the policy, and an analysis of employee telework participation during the preceding 12-month period provided by each executive agency;

(2) an assessment of the progress of each agency in maximizing telework opportunities for employees of that agency without diminishing employee performance or agency operations;

(3) the definition of telework and telework policies and any modifications to such definitions;

(4) the degree of participation by employees of each agency in teleworking during the period covered by the evaluation, including—

(A) the number and percent of the employees in the agency who are eligible to telework;

(B) the number and percent of employees who engage in telework;

(C) the number and percent of eligible employees in each agency who have declined the opportunity to telework; and

(D) the number of employees who were not authorized, willing, or able to telework and the reason;

(5) the extent to which barriers to maximize telework opportunities have been identified and eliminated; and

(6) best practices in agency telework programs.

SEC. 9008. COMPLIANCE OF EXECUTIVE AGENCIES.

(a) EXECUTIVE AGENCIES.—An executive agency shall be in compliance with this Act if each employee of that agency participating in telework regularly performs officially assigned duties at home or other worksites geographically convenient to the residence of the employee during at least 20 percent of each pay period that the employee is performing officially assigned duties.

(b) AGENCY MANAGER REPORTS.—Not later than 180 days after the establishment of a policy described under section 9003, and annually thereafter, each agency manager shall submit a report to the Chief Human Capital Officer and Telework Managing Officer of that agency that contains a summary of—

(1) efforts to promote telework opportunities for employees supervised by that manager; and

(2) any obstacles which hinder the ability of that manager to promote telework opportunities.

(c) CHIEF HUMAN CAPITAL OFFICER REPORTS.—

(1) IN GENERAL.—Each year the Chief Human Capital Officer of each agency, in consultation with the Telework Managing Officer of that agency, shall submit a report to the Chair and Vice Chair of the Chief Human Capital Offices Council on agency management efforts to promote telework.

(2) REVIEW AND INCLUSION OF RELEVANT INFORMATION.—The Chair and Vice Chair of the Chief Human Capital Offices Council shall—

(A) review the reports submitted under paragraph (1);

(B) include relevant information from the submitted reports in the annual report to Congress required under section 9007(b)(2); and

(C) use that relevant information for other purposes related to the strategic management of human capital.

(d) COMPLIANCE REPORTS.—Not later than 90 days after the date of submission of each report under section 9007, the Office of Management and Budget shall submit a report to Congress that—

(1) identifies and recommends corrective actions and time frames for each executive agency that the Office of Management and Budget determines is noncompliant; and

(2) describes progress of noncompliant executive agencies, justifications of any continuing noncompliance, and any recommendations for corrective actions planned

by the Office of Management and Budget or the executive agency to eliminate noncompliance.

SEC. 9009. EXTENSION OF TRAVEL EXPENSES TEST PROGRAMS.

(a) IN GENERAL.—Section 5710 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking ''for a period not to exceed 24 months''; and

(2) in subsection (e), by striking ''7 years'' and inserting ''16 years''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as though enacted as part of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 112 Stat. 2350).

TITLE X

GENERAL PROVISIONS—THIS ACT

AVAILABILITY OF FUNDS

SEC. 10001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

EMERGENCY DESIGNATION

SEC. 10002. Each amount in each title of this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

AVOIDANCE OF U.S. PAYROLL TAX CONTRIBUTIONS

SEC. 10003. None of the funds in this Act may be used by any Federal agency for a contract with any United States corporation which hires United States employees through foreign offshore subsidiaries for purposes of avoiding United States payroll tax contributions for such employees.

EXTENSION OF EB–5 REGIONAL CENTER PILOT PROGRAM

SEC. 10004. Section 610(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note) is amended by striking ''for 15 years'' and inserting ''for 20 years''.

INTERIM RELIEF FOR SKILLED IMMIGRANT WORKERS

SEC. 10005. (a) RECAPTURE OF UNUSED EMPLOYMENT-BASED VISA NUMBERS.—Subsection (d) of section 106 of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note) is amended—

(1) in paragraph (1)—

(A) by inserting ''1994, 1996, 1997, 1998,'' after ''available in fiscal year'';

(B) by striking ''or 2004'' and inserting ''2004, or 2006''; and

(C) by striking ''shall be available'' and all that follows through the end and inserting ''shall be available only to—

''(A) an employment-based immigrant under paragraph (1), (2), (3)(A)(i), or (3)(A)(ii) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)), except for employment-based immigrants whose petitions are or have been approved based on Schedule A, Group I as defined in section 656.5 of title 20, Code of Federal Regulations; or

''(B) a spouse or child accompanying or following to join such an employment-based immigrant under section 203(d) of such Act (8 U.S.C. 1153(d)).'';

(2) in paragraph (2)—

(A) in subparagraph (A), by striking ''years 1999 through 2004'' and inserting ''year 1994 and each subsequent fiscal year''; and

(B) in subparagraph (B)—

(i) in clause (i), by striking ''(i)''; and

(ii) by striking clause (ii); and

(3) by adding at the end the following new paragraph:

''(4) EMPLOYMENT-BASED VISA RECAPTURE FEE.—A fee shall be paid in connection with any petition seeking an employment-based immigrant visa number recaptured under paragraph (1), known as the Employment-Based Visa Recapture Fee, in the amount of $1500. Such Fee may not be charged for a dependent accompanying or following to join such employment-based immigrant.''.

(b) DISPOSITION OF FEES.—

(1) IMMIGRATION EXAMINATION FEE ACCOUNT.—The fees described in paragraph (2) shall be treated as adjudication fees and deposited as offsetting receipts into the Immigration Examinations Fee Account in the Treasury of the United States under section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)).

(2) FEES DESCRIBED.—The fees described in this paragraph are the following:

(A) Any Employment-Based Visa Recapture Fee collected pursuant to paragraph (4) of section 106(d) of the American Competitiveness in the Twenty-first Century Act of 2000, as added by subsection (a)(3).

(B) Any Supplemental Adjustment of Status Application Fee collected pursuant to paragraph (3) of subsection (n) of section 245 of the Immigration and Nationality Act, as added by subsection (c)(1).

(c) RETAINING GREEN CARD APPLICANTS WORKING IN THE UNITED STATES.—

(1) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following:

''(n) ADJUSTMENT OF STATUS FOR EMPLOYMENT-BASED IMMIGRANTS.—

''(1) ELIGIBILITY.—The Secretary of Homeland Security shall provide for the filing of an adjustment application by an alien (and any eligible dependents of such alien) who has an approved or pending petition under subparagraph (E) or (F) of section 204(a)(1), regardless of whether an immigrant visa is immediately available at the time the application is filed.

''(2) VISA AVAILABILITY.—An application filed pursuant to paragraph (1) shall not be approved until an immigrant visa becomes available.

''(3) FEES.—If an application is filed pursuant to paragraph (1) at a time at which a visa is not immediately available, a fee, known as the Supplemental Adjustment of Status Application Fee, in the amount of $1500 shall be paid on behalf of the beneficiary of such petition. Such Fee may not be charged for a dependent accompanying or following to join such beneficiary.''.

(2) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the implementation of subsection (n) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), as added by paragraph (1).

(3) REPEAL.—Unless a law is enacted that repeals this paragraph, the amendments made by paragraph (1) shall be repealed on the date that is 5 years after the date of the enactment of this Act.

SEC. 10006. NURSING SHORTAGE RELIEF. (a) INCREASING VISA NUMBERS.—Section 106 of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note) is amended by adding at the end the following:

''(e) VISA SHORTAGE RELIEF FOR NURSES AND PHYSICAL THERAPISTS.—

''(1) IN GENERAL.—Subject to paragraph (2), for petitions filed during the period beginning on the date of the enactment of the Emergency Nursing Supply Relief Act and ending on September 30, 2011, for employment-based immigrants (and their family members accompanying or following to join under section 203(d) of the Immigration and Nationality Act (8 U.S.C. 1153(d)), which are or have been approved based on Schedule A, Group I as defined in section 656.5 of title 20, Code of Federal Regulations, as promulgated by the Secretary of Labor, the numerical limitations set forth in sections 201(d) and 202(a) of such Act (8 U.S.C. 1151(d) and 1152(a)) shall not apply.

''(2) LIMITATION ON NUMBER OF VISAS.—The Secretary of State may not issue more than 20,000 immigrant visa numbers in any one fiscal year (plus any available visa numbers under this paragraph not used during the preceding fiscal year) to principal beneficiaries of petitions pursuant to paragraph (1).

''(3) EXPEDITED REVIEW.—The Secretary of Homeland Security shall provide a process for reviewing and acting upon petitions with respect to immigrants described in paragraph (1) not later than 30 days after the date on which a completed petition has been filed.

''(f) FEE FOR USE OF VISAS UNDER SUBSECTION (a).—

''(1) IN GENERAL.—The Secretary of Homeland Security shall impose a fee upon each petitioning employer who uses a visa provided under subsection (e) to provide employment for an alien as a professional nurse, except that—

''(A) such fee shall be in the amount of $1,500 for each such alien nurse (but not for dependents accompanying or following to join who are not professional nurses); and

''(B) no fee shall be imposed for the use of such visas if the employer demonstrates to the Secretary that—

''(i) the employer is a health care facility that is located in a county or parish that received individual and public assistance pursuant to Major Disaster Declaration number 1603 or 1607; or

''(ii) the employer is a health care facility that has been designated as a Health Professional Shortage Area facility by the Secretary of Health and Human Services as defined in section 332 of the Public Health Service Act (42 U.S.C. 254e).

''(2) FEE COLLECTION.—A fee imposed by the Secretary of Homeland Security pursuant to paragraph (1) shall be collected by the Secretary as a condition of approval of an application for adjustment of status by the beneficiary of a petition or by the Secretary of State as a condition of issuance of a visa to such beneficiary.''.

(b) CAPITATION GRANTS TO INCREASE THE NUMBER OF NURSING FACULTY AND STUDENTS; DOMESTIC NURSING ENHANCEMENT ACCOUNT.—Part D of title VIII of the Public Health Service Act (42 U.S.C. 296p et seq.) is amended by adding at the end the following:

''SEC. 832. CAPITATION GRANTS.

''(a) IN GENERAL.—For the purpose described in subsection (b), the Secretary, acting through the Health Resources and Services Administration, shall award a grant each fiscal year in an amount determined in accordance with subsection (c) to each eligible school of nursing that submits an application in accordance with this section.

''(b) PURPOSE.—A funding agreement for a grant under this section is that the eligible school of nursing involved will expend the grant to increase the number of nursing faculty and students at the school, including by hiring new faculty, retaining current faculty, purchasing educational equipment and audiovisual laboratories, enhancing clinical laboratories, repairing and expanding infrastructure, or recruiting students.

''(c) GRANT COMPUTATION.—

''(1) AMOUNT PER STUDENT.—Subject to paragraph (2), the amount of a grant to an eligible school of nursing under this section for a fiscal year shall be the total of the following:

''(A) $1,800 for each full-time or part-time student who is enrolled at the school in a graduate program in nursing that—

''(i) leads to a master's degree, a doctoral degree, or an equivalent degree; and

''(ii) prepares individuals to serve as faculty through additional course work in education and ensuring competency in an advanced practice area.

''(B) $1,405 for each full-time or part-time student who—

''(i) is enrolled at the school in a program in nursing leading to a bachelor of science degree, a bachelor of nursing degree, a graduate degree in nursing if such program does not meet the requirements of subparagraph (A), or an equivalent degree; and

''(ii) has not more than 3 years of academic credits remaining in the program.

''(C) $966 for each full-time or part-time student who is enrolled at the school in a program in nursing leading to an associate degree in nursing or an equivalent degree.

''(2) LIMITATION.—In calculating the amount of a grant to a school under paragraph (1), the Secretary may not make a payment with respect to a particular student—

''(A) for more than 2 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a master's degree or an equivalent degree;

''(B) for more than 4 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a doctoral degree or an equivalent degree;

''(C) for more than 3 fiscal years in the case of a student described in paragraph (1)(B); or

''(D) for more than 2 fiscal years in the case of a student described in paragraph (1)(C).

''(d) ELIGIBILITY.—In this section, the term 'eligible school of nursing' means a school of nursing that—

''(1) is accredited by a nursing accrediting agency recognized by the Secretary of Education;

''(2) has a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent for each of the 3 academic years preceding submission of the grant application; and

''(3) has a graduation rate (based on the number of students in a class who graduate relative to, for a baccalaureate program, the number of students who were enrolled in the class at the beginning of junior year or, for an associate degree program, the number of students who were enrolled in the class at the end of the first year) of not less than 80 percent for each of the 3 academic years preceding submission of the grant application.

''(e) REQUIREMENTS.—The Secretary may award a grant under this section to an eligible school of nursing only if the school gives assurances satisfactory to the Secretary that, for each academic year for which the grant is awarded, the school will comply with the following:

''(1) The school will maintain a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent.

''(2) The school will maintain a graduation rate (as described in subsection (d)(3)) of not less than 80 percent.

''(3)(A) Subject to subparagraphs (B) and (C), the first-year enrollment of full-time nursing students in the school will exceed such enrollment for the preceding academic year by 5 percent or 5 students, whichever is greater.

''(B) Subparagraph (A) shall not apply to the first academic year for which a school receives a grant under this section.

''(C) With respect to any academic year, the Secretary may waive application of subparagraph (A) if—

''(i) the physical facilities at the school involved limit the school from enrolling additional students; or

''(ii) the school has increased enrollment in the school (as described in subparagraph (A)) for each of the 2 preceding academic years.

''(4) Not later than 1 year after receiving a grant under this section, the school will formulate and implement a plan to accomplish at least 2 of the following:

''(A) Establishing or significantly expanding an accelerated baccalaureate degree nursing program designed to graduate new nurses in 12 to 18 months.

''(B) Establishing cooperative intradisciplinary education among schools of nursing with a view toward shared use of technological resources, including information technology.

''(C) Establishing cooperative interdisciplinary training between schools of nursing and schools of allied health, medicine, dentistry, osteopathy, optometry, podiatry, pharmacy, public health, or veterinary medicine, including training for the use of the interdisciplinary team approach to the delivery of health services.

''(D) Integrating core competencies on evidence-based practice, quality improvements, and patient-centered care.

''(E) Increasing admissions, enrollment, and retention of qualified individuals who are financially disadvantaged.

''(F) Increasing enrollment of minority and diverse student populations.

''(G) Increasing enrollment of new graduate baccalaureate nursing students in graduate programs that educate nurse faculty members.

''(H) Developing post-baccalaureate residency programs to prepare nurses for practice in specialty areas where nursing shortages are most severe.

''(I) Increasing integration of geriatric content into the core curriculum.

''(J) Partnering with economically disadvantaged communities to provide nursing education.

''(K) Expanding the ability of nurse managed health centers to provide clinical education training sites to nursing students.

''(5) The school will submit an annual report to the Secretary that includes updated information on the school with respect to student enrollment, student retention, graduation rates, passage rates on the National Council Licensure Examination for Registered Nurses, the number of graduates employed as nursing faculty or nursing care providers within 12 months of graduation, and the number of students who are accepted into graduate programs for further nursing education.

''(6) The school will allow the Secretary to make on-site inspections, and will comply with the Secretary's requests for information, to determine the extent to which the school is complying with the requirements of this section.

''(f) REPORTS TO CONGRESS.—The Secretary shall evaluate the results of grants under this section and submit to Congress—

''(1) not later than 18 months after the date of the enactment of this section, an interim report on such results; and

''(2) not later than September 30, 2010, a final report on such results.

''(g) APPLICATION.—An eligible school of nursing seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

''(h) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts in the Domestic Nursing Enhancement Account, established under section 833, there are authorized to be appropriated such sums as may be necessary to carry out this section.

''SEC. 833. DOMESTIC NURSING ENHANCEMENT ACCOUNT.

''(a) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account which shall be known as the 'Domestic Nursing Enhancement Account.' Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under section 106(f) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note). Nothing in this subsection shall prohibit the depositing of other moneys into the account established under this section.

''(b) USE OF FUNDS.—Amounts collected under section 106(f) of the American Competitiveness in the Twenty-first Century Act of 2000, and deposited into the account established under subsection (a) shall be used by the Secretary of Health and Human Services to carry out section 832. Such amounts shall be available for obligation only to the extent, and in the amount, provided in advance in appropriations Acts. Such amounts are authorized to remain available until expended.''.

(c) GLOBAL HEALTH CARE COOPERATION.—

(1) IN GENERAL.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended by inserting after section 317 the following:

''SEC. 317A. TEMPORARY ABSENCE OF ALIENS PROVIDING HEALTH CARE IN DEVELOPING COUNTRIES.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary of Homeland Security shall allow an eligible alien and the spouse or child of such alien to reside in a candidate country during the period that the eligible alien is working as a physician or other health care worker in a candidate country. During such period the eligible alien and such spouse or child shall be considered—

''(1) to be physically present and residing in the United States for purposes of naturalization under section 316(a); and

''(2) to meet the continuous residency requirements under section 316(b).

''(b) DEFINITIONS.—In this section:

''(1) CANDIDATE COUNTRY.—The term 'candidate country' means a country that the Secretary of State determines to be—

''(A) eligible for assistance from the International Development Association, in which the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for the applicable fiscal year, as defined by the International Bank for Reconstruction and Development;

''(B) classified as a lower middle income country in the then most recent edition of the World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development and having an income greater than the historical ceiling for International Development Association eligibility for the applicable fiscal year; or

''(C) qualified to be a candidate country due to special circumstances, including natural disasters or public health emergencies.

''(2) ELIGIBLE ALIEN.—The term 'eligible alien' means an alien who—

''(A) has been lawfully admitted to the United States for permanent residence; and

''(B) is a physician or other healthcare worker.

''(c) CONSULTATION.—The Secretary of Homeland Security shall consult with the Secretary of State in carrying out this section.

''(d) PUBLICATION.—The Secretary of State shall publish—

''(1) not later than 180 days after the date of the enactment of this section, a list of candidate countries;

''(2) an updated version of the list required by paragraph (1) not less often than once each year; and

''(3) an amendment to the list required by paragraph (1) at the time any country qualifies as a candidate country due to special circumstances under subsection (b)(1)(C).''.

(2) RULEMAKING.—

(A) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall promulgate regulations to carry out the amendments made by this subsection.

(B) CONTENT.—The regulations promulgated pursuant to paragraph (1) shall—

(i) permit an eligible alien (as defined in section 317A of the Immigration and Nationality Act, as added by paragraph (1)) and the spouse or child of the eligible alien to reside in a foreign country to work as a physician or other healthcare worker as described in subsection (a) of such section 317A for not less than a 12-month period and not more than a 24-month period, and shall permit the Secretary to extend such period for an additional period not to exceed 12 months, if the Secretary determines that such country has a continuing need for such a physician or other healthcare worker;

(ii) provide for the issuance of documents by the Secretary to such eligible alien, and such spouse or child, if appropriate, to demonstrate that such eligible alien, and such spouse or child, if appropriate, is authorized to reside in such country under such section 317A; and

(iii) provide for an expedited process through which the Secretary shall review applications for such an eligible alien to reside in a foreign country pursuant to subsection (a) of such section 317A if the Secretary of State determines a country is a candidate country pursuant to subsection (b)(1)(C) of such section 317A.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) DEFINITION.—Section 101(a)(13)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)(C)(ii)) is amended by adding at the end the following: ''except in the case of an eligible alien, or the spouse or child of such alien, who is authorized to be absent from the United States under section 317A,''.

(B) DOCUMENTARY REQUIREMENTS.—Section 211(b) of such Act (8 U.S.C. 1181(b)) is amended by inserting '', including an eligible alien authorized to reside in a foreign country under section 317A and the spouse or child of such eligible alien, if appropriate,'' after ''1101(a)(27)(A),''.

(C) INELIGIBLE ALIENS.—Section 212(a)(7)(A)(i)(I) of such Act (8 U.S.C. 1182(a)(7)(A)(i)(I)) is amended by inserting ''other than an eligible alien authorized to reside in a foreign country under section 317A and the spouse or child of such eligible alien, if appropriate,'' after ''Act,''.

(D) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 317 the following:

''Sec. 317A. Temporary absence of aliens providing health care in developing countries.''.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to U.S. Citizenship and Immigration Services such sums as may be necessary to carry out this subsection and the amendments made by this subsection.

(d) ATTESTATION BY HEALTH CARE WORKERS.—

(1) ATTESTATION REQUIREMENT.—Section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)) is amended by adding at the end the following:

''(E) HEALTH CARE WORKERS WITH OTHER OBLIGATIONS.—

''(i) IN GENERAL.—An alien who seeks to enter the United States for the purpose of performing labor as a physician or other health care worker is inadmissible unless the alien submits to the Secretary of Homeland Security or the Secretary of State, as appropriate, an attestation that the alien is not seeking to enter the United States for such purpose during any period in which the alien has an outstanding obligation to the government of the alien's country of origin or the alien's country of residence.

''(ii) OBLIGATION DEFINED.—In this subparagraph, the term 'obligation' means an obligation incurred as part of a valid, voluntary individual agreement in which the alien received financial assistance to defray the costs of education or training to qualify as a physician or other health care worker in consideration for a commitment to work as a physician or other health care worker in the alien's country of origin or the alien's country of residence.

''(iii) WAIVER.—The Secretary of Homeland Security may waive a finding of inadmissibility under clause (i) if the Secretary determines that—

''(I) the obligation was incurred by coercion or other improper means;

''(II) the alien and the government of the country to which the alien has an outstanding obligation have reached a valid, voluntary agreement, pursuant to which the alien's obligation has been deemed satisfied, or the alien has shown to the satisfaction of the Secretary that the alien has been unable to reach such an agreement because of coercion or other improper means; or

''(III) the obligation should not be enforced due to other extraordinary circumstances, including undue hardship that would be suffered by the alien in the absence of a waiver.''.

(2) EFFECTIVE DATE; APPLICATION.—

(A) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(B) APPLICATION BY THE SECRETARY.—Not later than the effective date described in subparagraph (A), the Secretary of Homeland Security shall begin to carry out subparagraph (E) of section 212(a)(5) of the Immigration and Nationality Act, as added by paragraph (1), including the requirement for the attestation and the granting of a waiver described in clause (iii) of such subparagraph (E), regardless of whether regulations to implement such subparagraph have been promulgated.

SEC. 10007. NURSE TRAINING AND RETENTION DEMONSTRATION GRANTS. (a) FINDINGS.—Congress makes the following findings:

(1) America's healthcare system depends on an adequate supply of trained nurses to deliver quality patient care.

(2) Over the next 15 years, this shortage is expected to grow significantly. The Health Resources and Services Administration has projected that by 2020, there will be a shortage of nurses in every State and that overall only 64 percent of the demand for nurses will be satisfied, with a shortage of 1,016,900 nurses nationally.

(3) To avert such a shortage, today's network of healthcare workers should have access to education and support from their employers to participate in educational and training opportunities.

(4) With the appropriate education and support, incumbent healthcare workers and incumbent bedside nurses are untapped sources which can meet these needs and address the nursing shortage and provide quality care as the American population ages.

(b) PURPOSES OF GRANT PROGRAM.—It is the purpose of this section to authorize grants to—

(1) address the projected shortage of nurses by funding comprehensive programs to create a career ladder to nursing (including Certified Nurse Assistants, Licensed Practical Nurses, Licensed Vocational Nurses, and Registered Nurses) for incumbent ancillary healthcare workers;

(2) increase the capacity for educating nurses by increasing both nurse faculty and clinical opportunities through collaborative programs between staff nurse organizations, healthcare providers, and accredited schools of nursing; and

(3) provide training programs through education and training organizations jointly administered by healthcare providers and healthcare labor organizations or other organizations representing staff nurses and frontline healthcare workers, working in collaboration with accredited schools of nursing and academic institutions.

(c) GRANTS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Labor (referred to in this section as the ''Secretary'') shall establish a partnership grant program to award grants to eligible entities to carry out comprehensive programs to provide education to nurses and create a pipeline to nursing for incumbent ancillary healthcare workers who wish to advance their careers, and to otherwise carry out the purposes of this section.

(d) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section an entity shall—

(1) be—

(A) a healthcare entity that is jointly administered by a healthcare employer and a labor union representing the healthcare employees of the employer and that carries out activities using labor management training funds as provided for under section 302 of the Labor-Management Relations Act, 1947 (18 U.S.C. 186(c)(6));

(B) an entity that operates a training program that is jointly administered by—

(i) one or more healthcare providers or facilities, or a trade association of healthcare providers; and

(ii) one or more organizations which represent the interests of direct care healthcare workers or staff nurses and in which the direct care healthcare workers or staff nurses have direct input as to the leadership of the organization; or

(C) a State training partnership program that consists of non-profit organizations that include equal participation from industry, including public or private employers, and labor organizations including joint labor-management training programs, and which may include representatives from local governments, worker investment agency one-stop career centers, community based organizations, community colleges, and accredited schools of nursing; and

(2) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(e) ADDITIONAL REQUIREMENTS FOR HEALTHCARE EMPLOYER DESCRIBED IN SUBSECTION (d).—To be eligible for a grant under this section, a healthcare employer described in subsection (d) shall demonstrate—

(1) an established program within their facility to encourage the retention of existing nurses;

(2) it provides wages and benefits to its nurses that are competitive for its market or that have been collectively bargained with a labor organization; and

(3) support for programs funded under this section through 1 or more of the following:

(A) The provision of paid leave time and continued health coverage to incumbent healthcare workers to allow their participation in nursing career ladder programs, including Certified Nurse Assistants, Licensed Practical Nurses, Licensed Vocational Nurses, and Registered Nurses.

(B) Contributions to a joint labor-management or other jointly administered training fund which administers the program involved.

(C) The provision of paid release time, incentive compensation, or continued health coverage to staff nurses who desire to work full- or part-time in a faculty position.

(D) The provision of paid release time for staff nurses to enable them to obtain a bachelor of science in nursing degree, other advanced nursing degrees, specialty training, or certification program.

(E) The payment of tuition assistance to incumbent healthcare workers.

(f) OTHER REQUIREMENTS.—

(1) MATCHING REQUIREMENT.—

(A) IN GENERAL.—The Secretary may not make a grant under this section unless the applicant involved agrees, with respect to the costs to be incurred by the applicant in carrying out the program under the grant, to make available non-Federal contributions (in cash or in kind under subparagraph (B)) toward such costs in an amount equal to not less than $1 for each $1 of Federal funds provided in the grant. Such contributions may be made directly or through donations from public or private entities, or may be provided through the cash equivalent of paid release time provided to incumbent worker students.

(B) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required in subparagraph (A) may be in cash or in kind (including paid release time), fairly evaluated, including equipment or services (and excluding indirect or overhead costs).

(C) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall supplement, and not supplant, resources dedicated by an entity, or other Federal, State, or local funds available to carry out activities described in this section.

(2) REQUIRED COLLABORATION.—Entities carrying out or overseeing programs carried out with assistance provided under this section shall demonstrate collaboration with accredited schools of nursing which may include community colleges and other academic institutions providing associate, bachelor's, or advanced nursing degree programs or specialty training or certification programs.

(g) ACTIVITIES.—Amounts awarded to an entity under a grant under this section shall be used for the following:

(1) To carry out programs that provide education and training to establish nursing career ladders to educate incumbent healthcare workers to become nurses (including Certified Nurse Assistants, Licensed Practical Nurses, Licensed Vocational Nurses, and Registered Nurses). Such programs shall include one or more of the following:

(A) Preparing incumbent workers to return to the classroom through English as a second language education, GED education, precollege counseling, college preparation classes, and support with entry level college classes that are a prerequisite to nursing.

(B) Providing tuition assistance with preference for dedicated cohort classes in community colleges, universities, accredited schools of nursing with supportive services including tutoring and counseling.

(C) Providing assistance in preparing for and meeting all nursing licensure tests and requirements.

(D) Carrying out orientation and mentorship programs that assist newly graduated nurses in adjusting to working at the bedside to ensure their retention post graduation, and ongoing programs to support nurse retention.

(E) Providing stipends for release time and continued healthcare coverage to enable incumbent healthcare workers to participate in these programs.

(2) To carry out programs that assist nurses in obtaining advanced degrees and completing specialty training or certification programs and to establish incentives for nurses to assume nurse faculty positions on a part-time or full-time basis. Such programs shall include one or more of the following:

(A) Increasing the pool of nurses with advanced degrees who are interested in teaching by funding programs that enable incumbent nurses to return to school.

(B) Establishing incentives for advanced degree bedside nurses who wish to teach in nursing programs so they can obtain a leave from their bedside position to assume a full- or part-time position as adjunct or full time faculty without the loss of salary or benefits.

(C) Collaboration with accredited schools of nursing which may include community colleges and other academic institutions providing associate, bachelor's, or advanced nursing degree programs, or specialty training or certification programs, for nurses to carry out innovative nursing programs which meet the needs of bedside nursing and healthcare providers.

(h) PREFERENCE.—In awarding grants under this section the Secretary shall give preference to programs that—

(1) provide for improving nurse retention;

(2) provide for improving the diversity of the new nurse graduates to reflect changes in the demographics of the patient population;

(3) provide for improving the quality of nursing education to improve patient care and safety;

(4) have demonstrated success in upgrading incumbent healthcare workers to become nurses or which have established effective programs or pilots to increase nurse faculty; or

(5) are modeled after or affiliated with such programs described in paragraph (4).

(i) EVALUATION.—

(1) PROGRAM EVALUATIONS.—An entity that receives a grant under this section shall annually evaluate, and submit to the Secretary a report on, the activities carried out under the grant and the outcomes of such activities. Such outcomes may include—

(A) an increased number of incumbent workers entering an accredited school of nursing and in the pipeline for nursing programs;

(B) an increasing number of graduating nurses and improved nurse graduation and licensure rates;

(C) improved nurse retention;

(D) an increase in the number of staff nurses at the healthcare facility involved;

(E) an increase in the number of nurses with advanced degrees in nursing;

(F) an increase in the number of nurse faculty;

(G) improved measures of patient quality as determined by the Secretary; and

(H) an increase in the diversity of new nurse graduates relative to the patient population.

(2) GENERAL REPORT.—Not later than September 30, 2011, the Secretary of Labor shall, using data and information from the reports received under paragraph (1), submit to Congress a report concerning the overall effectiveness of the grant program carried out under this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section for fiscal years 2010, 2011, and 2012, such sums as may be necessary. Funds appropriated under this subsection shall remain available until expended without fiscal year limitation.

EXPLANATORY STATEMENT

SEC. 10008. The explanatory statement printed in the Senate section of the Congressional Record on May 19, 2008, submitted by the Chairman of the Committee on Appropriations of the Senate regarding the amendments of the Senate to the House amendments to the Senate amendment to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes, submitted by the Chairman of the Committee on Appropriations of the Senate, shall have the same effect with respect to the allocation of funds and implementation of titles I through XIII of this Act as if it were a report to the Senate on a bill reported by the Committee on Appropriations.

This act shall become effective 1 day after enactment.

SHORT TITLE

SEC. 10009. This Act may be cited as the ''Supplemental Appropriations Act, 2008''.

TEXT OF AMENDMENTS

SA 4805. Mr. CORKER submitted an amendment intended to be proposed by him to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SENSE OF SENATE ON PROVISION OF TACTICAL AND UTILITY HELICOPTERS TO SUPPORT THE UNITED NATIONS–AFRICAN UNION PEACEKEEPING MISSION IN DARFUR

SEC. ____. It is the sense of the Senate that all efforts should be made to expedite any lease, transfer, or acquisition of tactical and utility helicopters to support the United Nations-African Union peacekeeping mission in Darfur, Sudan, as provided in section 1411 of this Act.

SA 4806. Mr. CORKER (for himself, Mr. BINGAMAN, Mr. HARKIN, Mr. MENENDEZ, Mr. MARTINEZ, Mr. NELSON of Florida, and Mr. DODD) submitted an amendment intended to be proposed by him to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. It is the sense of the Senate that, of the funds made available by this Act to carry out title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.), for the 180-day period beginning on the date of enactment of this Act, $60,000,000 should be made available to respond to the emergency food assistance needs of Haiti.

SA 4807. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—DOMESTIC FUELS SECURITY

SECTION ___01. SHORT TITLE.

This title may be cited as the ''Gas Petroleum Refiner Improvement and Community Empowerment Act'' or ''Gas PRICE Act''.

SEC. ___02. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) COAL-TO-LIQUID.—The term ''coal-to-liquid'' means—

(A) with respect to a process or technology, the use of a feedstock, the majority of which is derived from the coal resources of the United States, using the class of reactions known as Fischer-Tropsch, to produce synthetic fuel suitable for transportation; and

(B) with respect to a facility, the portion of a facility related to producing the inputs for the Fischer-Tropsch process, or the finished fuel from the Fischer-Tropsch process, using a feedstock that is primarily domestic coal at the Fischer-Tropsch facility.

(3) DOMESTIC FUELS FACILITY.—

(A) IN GENERAL.—The term ''domestic fuels facility'' means—

(i) a coal liquification or coal-to-liquid facility at which coal is processed into synthetic crude oil or any other transportation fuel;

(ii) a facility that produces a renewable fuel (as defined in section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1))); and

(iii) a facility at which crude oil is refined into transportation fuel or other petroleum products.

(B) INCLUSION.—The term ''domestic fuels facility'' includes a domestic fuels facility expansion.

(4) DOMESTIC FUELS FACILITY EXPANSION.—The term ''domestic fuels facility expansion'' means a physical change in a domestic fuels facility that results in an increase in the capacity of the domestic fuels facility.

(5) DOMESTIC FUELS FACILITY PERMITTING AGREEMENT.—The term ''domestic fuels facility permitting agreement'' means an agreement entered into between the Administrator and a State or Indian tribe under subsection (b).

(6) DOMESTIC FUELS PRODUCER.—The term ''domestic fuels producer'' means an individual or entity that—

(A) owns or operates a domestic fuels facility; or

(B) seeks to become an owner or operator of a domestic fuels facility.

(7) INDIAN LAND.—The term ''Indian land'' has the meaning given the term ''Indian lands'' in section 3 of the Native American Business Development, Trade Promotion, and Tourism Act of 2000 (25 U.S.C. 4302).

(8) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(9) PERMIT.—The term ''permit'' means any permit, license, approval, variance, or other form of authorization that a refiner is required to obtain—

(A) under any Federal law; or

(B) from a State or Indian tribal government agency delegated with authority by the Federal Government, or authorized under Federal law to issue permits.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(11) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

Subtitle A—Collaborative Permitting Process for Domestic Fuels Facilities

SEC. ___11. COLLABORATIVE PERMITTING PROCESS FOR DOMESTIC FUELS FACILITIES.

(a) IN GENERAL.—At the request of the Governor of a State or the governing body of an Indian tribe, the Administrator shall enter into a domestic fuels facility permitting agreement with the State or Indian tribe under which the process for obtaining all permits necessary for the construction and operation of a domestic fuels facility shall be improved using a systematic interdisciplinary multimedia approach as provided in this section.

(b) AUTHORITY OF ADMINISTRATOR.—Under a domestic fuels facility permitting agreement—

(1) the Administrator shall have authority, as applicable and necessary, to—

(A) accept from a refiner a consolidated application for all permits that the domestic fuels producer is required to obtain to construct and operate a domestic fuels facility;

(B) establish a schedule under which each Federal, State, or Indian tribal government agency that is required to make any determination to authorize the issuance of a permit shall—

(i) concurrently consider, to the maximum extent practicable, each determination to be made; and

(ii) complete each step in the permitting process; and

(C) issue a consolidated permit that combines all permits that the domestic fuels producer is required to obtain; and

(2) the Administrator shall provide to State and Indian tribal government agencies—

(A) financial assistance in such amounts as the agencies reasonably require to hire such additional personnel as are necessary to enable the government agencies to comply with the applicable schedule established under paragraph (1)(B); and

(B) technical, legal, and other assistance in complying with the domestic fuels facility permitting agreement.

(c) AGREEMENT BY THE STATE.—Under a domestic fuels facility permitting agreement, a State or governing body of an Indian tribe shall agree that—

(1) the Administrator shall have each of the authorities described in subsection (b); and

(2) each State or Indian tribal government agency shall—

(A) make such structural and operational changes in the agencies as are necessary to enable the agencies to carry out consolidated project-wide permit reviews concurrently and in coordination with the Environmental Protection Agency and other Federal agencies; and

(B) comply, to the maximum extent practicable, with the applicable schedule established under subsection (b)(1)(B).

(d) INTERDISCIPLINARY APPROACH.—

(1) IN GENERAL.—The Administrator and a State or governing body of an Indian tribe shall incorporate an interdisciplinary approach, to the maximum extent practicable, in the development, review, and approval of domestic fuels facility permits subject to this section.

(2) OPTIONS.—Among other options, the interdisciplinary approach may include use of—

(A) environmental management practices; and

(B) third party contractors.

(e) DEADLINES.—

(1) NEW DOMESTIC FUELS FACILITIES.—In the case of a consolidated permit for the construction of a new domestic fuels facility, the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(A) 360 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(B) on agreement of the applicant, the Administrator, and the State or governing body of the Indian tribe, 90 days after the expiration of the deadline established under subparagraph (A).

(2) EXPANSION OF EXISTING DOMESTIC FUELS FACILITIES.—In the case of a consolidated permit for the expansion of an existing domestic fuels facility, the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(A) 120 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(B) on agreement of the applicant, the Administrator, and the State or governing body of the Indian tribe, 30 days after the expiration of the deadline established under subparagraph (A).

(f) FEDERAL AGENCIES.—Each Federal agency that is required to make any determination to authorize the issuance of a permit shall comply with the applicable schedule established under subsection (b)(1)(B).

(g) JUDICIAL REVIEW.—Any civil action for review of any determination of any Federal, State, or Indian tribal government agency in a permitting process conducted under a domestic fuels facility permitting agreement brought by any individual or entity shall be brought exclusively in the United States district court for the district in which the domestic fuels facility is located or proposed to be located.

(h) EFFICIENT PERMIT REVIEW.—In order to reduce the duplication of procedures, the Administrator shall use State permitting and monitoring procedures to satisfy substantially equivalent Federal requirements under this section.

(i) SEVERABILITY.—If 1 or more permits that are required for the construction or operation of a domestic fuels facility are not approved on or before any deadline established under subsection (e), the Administrator may issue a consolidated permit that combines all other permits that the domestic fuels producer is required to obtain other than any permits that are not approved.

(j) SAVINGS.—Nothing in this section affects the operation or implementation of otherwise applicable law regarding permits necessary for the construction and operation of a domestic fuels facility.

(k) CONSULTATION WITH LOCAL GOVERNMENTS.—Congress encourages the Administrator, States, and tribal governments to consult, to the maximum extent practicable, with local governments in carrying out this section.

(l) EFFECT ON LOCAL AUTHORITY.—Nothing in this section affects—

(1) the authority of a local government with respect to the issuance of permits; or

(2) any requirement or ordinance of a local government (such as zoning regulations).

Subtitle B—Environmental Analysis of Fischer-Tropsch Fuels

SEC. ___21. EVALUATION OF FISCHER-TROPSCH DIESEL AND JET FUEL AS AN EMISSION CONTROL STRATEGY.

(a) IN GENERAL.—In cooperation with the Secretary of Energy, the Secretary of Defense, the Administrator of the Federal Aviation Administration, Secretary of Health and Human Services, and Fischer-Tropsch industry representatives, the Administrator shall—

(1) conduct a research and demonstration program to evaluate the air quality benefits of ultra-clean Fischer-Tropsch transportation fuel, including diesel and jet fuel;

(2) evaluate the use of ultra-clean Fischer-Tropsch transportation fuel as a mechanism for reducing engine exhaust emissions; and

(3) submit recommendations to Congress on the most effective use and associated benefits of these ultra-clean fuels for reducing public exposure to exhaust emissions.

(b) GUIDANCE AND TECHNICAL SUPPORT.—The Administrator shall, to the extent necessary, issue any guidance or technical support documents that would facilitate the effective use and associated benefit of Fischer-Tropsch fuel and blends.

(c) REQUIREMENTS.—The program described in subsection (a) shall consider—

(1) the use of neat (100 percent) Fischer-Tropsch fuel and blends with conventional crude oil-derived fuel for heavy-duty and light-duty diesel engines and the aviation sector; and

(2) the production costs associated with domestic production of those ultra clean fuel and prices for consumers.

(d) REPORTS.—The Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives—

(1) not later than 180 days after the date of enactment of this Act, an interim report on actions taken to carry out this section; and

(2) not later than 1 year after the date of enactment of this Act, a final report on actions taken to carry out this section.

Subtitle C—Domestic Coal-to-Liquid Fuel and Cellulosic Biomass Ethanol

SEC. ___31. ECONOMIC DEVELOPMENT ASSISTANCE TO SUPPORT COMMERCIAL-SCALE CELLULOSIC BIOMASS ETHANOL PROJECTS AND COAL-TO-LIQUIDS FACILITIES ON BRAC PROPERTY AND INDIAN LAND.

(a) PRIORITY.—Notwithstanding section 206 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3146), in awarding funds made available to carry out section 209(c)(1) of that Act (42 U.S.C. 3149(c)(1)) pursuant to section 702 of that Act (42 U.S.C. 3232), the Secretary and the Economic Development Administration shall give priority to projects to support commercial-scale cellulosic biomass ethanol projects and coal-to-liquids facilities.

(b) FEDERAL SHARE.—Except as provided in subsection (c)(3)(B) and notwithstanding the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), the Federal share of a project to support a commercial-scale biomass ethanol facility or coal-to-liquid facility shall be—

(1) 80 percent of the project cost; or

(2) for a project carried out on Indian land, 100 percent of the project cost.

(c) ADDITIONAL AWARD.—

(1) IN GENERAL.—The Secretary shall make an additional award in connection with a grant made to a recipient (including any Indian tribe for use on Indian land) for a project to support a commercial-scale biomass ethanol facility or coal-to-liquid facility.

(2) AMOUNT.—The amount of an additional award shall be 10 percent of the amount of the grant for the project.

(3) USE.—An additional award under this subsection shall be used—

(A) to carry out any eligible purpose under the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.);

(B) notwithstanding section 204 of that Act (42 U.S.C. 3144), to pay up to 100 percent of the cost of an eligible project or activity under that Act; or

(C) to meet the non-Federal share requirements of that Act or any other Act.

(4) NON-FEDERAL SOURCE.—For the purpose of paragraph (3)(C), an additional award shall be treated as funds from a non-Federal source.

(5) FUNDING.—The Secretary shall use to carry out this subsection any amounts made available—

(A) for economic development assistance programs; or

(B) under section 702 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3232).

Subtitle D—Alternative Hydrocarbon and Renewable Reserves Disclosures Classification System

SEC. ___41. ALTERNATIVE HYDROCARBON AND RENEWABLE RESERVES DISCLOSURES CLASSIFICATION SYSTEM.

(a) IN GENERAL.—The Securities and Exchange Commission shall appoint a task force composed of government and private sector representatives, including experts in the field of dedicated energy crop feedstocks for cellulosic biofuels production, to analyze, and submit to Congress a report (including recommendations) on—

(1) modernization of the hydrocarbon reserves disclosures classification system of the Commission to reflect advances in reserves recovery from nontraditional sources (such as deep water, oil shale, tar sands, and renewable reserves for cellulosic biofuels feedstocks); and

(2) the creation of a renewable reserves classification system for cellulosic biofuels feedstocks.

(b) DEADLINE FOR REPORT.—The Commission shall submit the report required under subsection (a) not later than 180 days after the date of enactment of this Act.

Subtitle E—Authorization of Appropriations

SEC. ___51. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title and the amendments made by this title.

SA 4808. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ASSISTANCE TO SMALL CRITICAL ACCESS HOSPITALS TRANSITIONING TO SKILLED NURSING FACILITIES.

Section 1820(g) of the Social Security Act (42 U.S.C. 1395i–4(g)) is amended by adding at the end the following new paragraph:

''(6) CRITICAL ACCESS HOSPITALS TRANSITIONING TO SKILLED NURSING FACILITIES.—

''(A) GRANTS.—The Secretary may award grants to eligible critical access hospitals that have submitted applications in accordance with subparagraph (B) for assisting such hospitals in the transition to skilled nursing facilities.

''(B) APPLICATION.—An applicable critical access hospital seeking a grant under this paragraph shall submit an application to the Secretary on or before such date and in such form and manner as the Secretary specifies.

''(C) ADDITIONAL REQUIREMENTS.—The Secretary may not award a grant under this paragraph to an eligible critical access hospital unless—

''(i) local organizations or the State in which the hospital is located provides matching funds; and

''(ii) the hospital provides assurances that it will surrender critical access hospital status under this title within 180 days of receiving the grant.

''(D) AMOUNT OF GRANT.—A grant to an eligible critical access hospital under this paragraph may not exceed $1,000,000.

''(E) FUNDING.—There are appropriated from the Federal Hospital Insurance Trust Fund under section 1817 for making grants under this paragraph, $5,000,000 for fiscal year 2008.

''(F) ELIGIBLE CRITICAL ACCESS HOSPITAL DEFINED.—For purposes of this paragraph, the term 'eligible critical access hospital' means a critical access hospital that has an average daily acute census of less than 0.5 and an average daily swing bed census of greater than 10.0.''.

SA 4809. Mr. FEINGOLD (for himself, Mr. LEAHY, Mr. WHITEHOUSE, Mr. DURBIN, Mr. SANDERS, Mr. LAUTENBERG, Mrs. BOXER, Mr. HARKIN, Mr. MENENDEZ, and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SAFE REDEPLOYMENT OF THE UNITED STATES ARMED FORCES FROM IRAQ

SEC. ____. (a) TRANSITION OF MISSION.—The President shall promptly transition the mission of the United States Armed Forces in Iraq to the limited and temporary purposes set forth in subsection (d).

(b) COMMENCEMENT OF SAFE, PHASED REDEPLOYMENT FROM IRAQ.—The President shall commence the safe, phased redeployment of members of the United States Armed Forces from Iraq who are not essential to the limited and temporary purposes set forth in subsection (d). Such redeployment shall begin not later than 90 days after the date of the enactment of this Act, and shall be carried out in a manner that protects the safety and security of United States troops.

(c) USE OF FUNDS.—No funds appropriated or otherwise made available under this Act or any other provision of law may be obligated or expended to continue the deployment in Iraq of members of the United States Armed Forces after the date that is nine months after the date of the enactment of this Act.

(d) EXCEPTION FOR LIMITED AND TEMPORARY PURPOSES.—The prohibition in subsection (c) shall not apply to the obligation or expenditure of funds for the following limited and temporary purposes:

(1) To conduct targeted operations, limited in duration and scope, against members of al Qaeda and affiliated international terrorist organizations.

(2) To provide security for United States Government personnel and infrastructure.

(3) To provide training to members of the Iraqi Security Forces who have not been involved in sectarian violence or in attacks

upon the United States Armed Forces, provided that such training does not involve members of the United States Armed Forces taking part in combat operations or being embedded with Iraqi forces.

(4) To provide training, equipment, or other materiel to members of the United States Armed Forces to ensure, maintain, or improve their safety and security.

(e) USE OF FUNDS FOR REDEPLOYMENT AND FOR HEALTH CARE AND HOUSING FOR MEMBERS OF THE ARMED FORCES AND VETERANS.—Amounts that would, but for the limitation in subsection (c), be available for obligation or expenditure for the continuing deployment in Iraq of members of the United States Armed Forces shall be obligated and expended instead solely as follows:

(1) By the Secretary of Defense, for the redeployment of members of the United States Armed Forces as described in subsection (b).

(2) By the Secretary of Defense—

(A) for programs and activities to maintain, enhance, and improve military housing for members of the Armed Forces; and

(B) for programs and activities to improve and enhance the medical and dental care available to members of the Armed Forces.

(3) By the Secretary of Veterans Affairs for programs and activities to improve the hospital care, medical care, and other health care benefits and services available to veterans.

SA 4810. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Notwithstanding any other provision of law, the $2,695,000 appropriated for the Charlotte Rapid Transit Extension–Northeast Corridor Light Rail Project, NC under the Alternatives Analysis Account in division K of the Consolidated Appropriations Act, 2008 (Public Law 110–161) shall be used for the Charlotte Rapid Transit Extension–Northeast Corridor to carry out new fixed guideway capital projects or for extensions to existing fixed guideway capital projects described in section 5309 of title 49, United States Code.

SA 4811. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

PREFERENCE ON COORDINATION WITH INDIGENOUS IRAQI NON-GOVERNMENTAL ORGANIZATIONS IN PROJECTS ASSISTING INTERNALLY DISPLACED IRAQIS

SEC. ____. Notwithstanding any other provision of law, the Secretary of State and the Secretary of Defense shall ensure in the allocation of all funds appropriated or otherwise made available by this Act or any other Act for projects assisting internally displaced Iraqis, including projects for humanitarian assistance, training, capacity building, or construction and repair of infrastructure directly affecting the return or resettlement of displaced Iraqis, preference shall be given to projects coordinated with indigenous Iraqi non-governmental organizations.

SA 4812. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

PROVISION OF PROJECT-BASED HOUSING FOR AFFORDABLE HOUSING UNITS DAMAGED OR DESTROYED BY HURRICANES KATRINA OR RITA

Pursuant to section 215 of title II of division K of Public Law 110-161 (121 Stat. 2433), the Secretary of Housing and Urban Development shall, not later than October 1, 2008, promptly review and approve (A) any feasible proposal made by the owner of a covered assisted multifamily housing project submitted to the Secretary that provides for the rehabilitation of such project and the resumption of use of the project-based assistance under the contract for such project or (B) the transfer, subject to the conditions established under section 215(b) of title II of division K of Public Law 110-161, of the contract for such covered assisted multifamily housing project, or in the case of a covered assisted multifamily housing project with an interest reduction payments contract, of the remaining budget authority under the contract, to a receiving project or projects: *Provided*, the term ''covered assisted multifamily housing project'' means housing that meets 1 of the conditions established in section 215(c)(2) of title II of division K of Public Law 110-161 and was damaged or destroyed by Hurricanes Katrina or Rita of 2005 and is located in an area in the State of Louisiana, Alabama and Mississippi that was the subject of a disaster declaration by the President under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in response to Hurricane Katrina or Hurricane Rita of 2005: *Provided further*, That the term ''project-based assistance'' has the same meaning as in section 215(c)(3) of title II of division K of Public Law 110-161: *Provided further*, That the term ''receiving project or projects'' has the same meaning as in section 215(c)(4) of title II of division K of Public Law 110-161.

SA 4813. Mr. CASEY (for himself, Ms. SNOWE, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows;

At the appropriate place, insert the following:

SEC. ____. (a) The Secretary of Agriculture shall use $5,000,000 of the funds made available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to provide funding described in subsection (b) to eligible recipient agencies to offset the costs of the agencies for intrastate transportation, storage, and distribution of commodities made available under section 202(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7502(a)).

(b) The Secretary shall provide funding described in subsection (a) to an eligible recipient agency at a rate equal to the lower of $0.05 per pound or $0.05 per dollar value of commodities made available under section 202(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7502(a)) that are made available under that Act to, and accepted by, the eligible recipient agency.

SA 4814. Mr. BROWNBACK (for himself, Mr. ENSIGN, and Mr. ROBERTS) submitted an amendment intended to be proposed to amendment SA 4803 proposed by Mr. REID to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 31 of the amendment, strike line 17 and all that follows through line 12 on page 35, and insert the following:

SEC. 1404. WAIVER OF CERTAIN SANCTIONS TO FACILITATE DENUCLEARIZATION ACTIVITIES IN NORTH KOREA.

(a) WAIVER AUTHORITY AND EXCEPTIONS.—

(1) WAIVER AUTHORITY.—Except as provided in paragraph (2), the President may waive, in whole or in part, the application of any sanction contained in subparagraph (A), (B), (D), or (G) of section 102(b)(2) of the Arms Export Control Act (22 U.S.C. 2799aa–1(b)(2)) with respect to North Korea in order to provide material, direct, and necessary assistance for disablement, dismantlement, verification, and physical removal activities in the implementation of the commitment of North Korea, undertaken in the Joint Statement of September 19, 2005, to abandon all nuclear weapons and existing nuclear programs as part of the verifiable denuclearization of the Korean Peninsula.

(2) EXCEPTIONS.—The waiver authority under paragraph (1) may not be exercised with respect to the following:

(A) Any export of lethal defense articles that would be prevented by the application of section 102(b)(2)(B) of the Arms Export Control Act.

(B) Any sanction relating to credit or credit guarantees contained in section 102(b)(2)(D) of the Arms Export Control Act.

(b) CERTIFICATION REGARDING WAIVER OF CERTAIN SANCTIONS.—Assistance described in subparagraph (B) or (G) of section 102(b)(2) of the Arms Export Control Act (22 U.S.C. 2799aa–1(b)(2)) may be provided with respect to North Korea by reason of the exercise of the waiver authority under subsection (a) only if the President first determines and certifies to the appropriate congressional committees that—

(1) all necessary steps will be taken to ensure that the assistance will not be used to improve the military capabilities of the armed forces of North Korea; and

(2) the exercise of the waiver authority is in the national security interests of the United States.

(c) CONGRESSIONAL NOTIFICATION AND REPORT.—

(1) NOTIFICATION.—The President shall notify the appropriate congressional committees in writing not later than 15 days before exercising the waiver authority under subsection (a).

(2) REPORT.—Not later than 60 days after the date of the enactment of this Act, and annually thereafter for such time during which the exercise of the waiver authority under subsection (a) remains in effect, the President shall transmit to the appropriate congressional committees a report that—

(A) describes in detail the progress that is being made in the implementation of the commitment of North Korea described in subsection (a);

(B) describes in detail any failures, shortcomings, or obstruction by North Korea with respect to the implementation of the commitment of North Korea described in subsection (a);

(C) describes in detail the progress or lack thereof in the preceding 12-month period of all other programs promoting the elimination of North Korea's capability to develop, deploy, transfer, or maintain weapons of mass destruction or their delivery systems; and

(D) beginning with the second report required by this subsection, a justification for the continuation of the waiver exercised under subsection (a) and, if applicable, subsection (b), for the fiscal year in which the report is submitted.

(d) TERMINATION OF WAIVER AUTHORITY.—Any waiver in effect by reason of the exercise of the waiver authority under subsection (a) shall terminate if the President determines that North Korea—

(1)(A) on or after September 19, 2005, transferred to a non-nuclear-weapon state, or received, a nuclear explosive device; or

(B) on or after October 10, 2006, detonated a nuclear explosive device; or

(2) on or after September 19, 2005—

(A) transferred to a non-nuclear-weapon state any design information or component which is determined by the President to be important to, and known by North Korea to be intended by the recipient state for use in, the development or manufacture of any nuclear explosive device, or

(B) sought and received any design information or component which is determined by the President to be important to, and intended by North Korea for use in, the development or manufacture of any nuclear explosive device,

unless the President determines and certifies to the appropriate congressional committees that such waiver is vital to the national security interests of the United States.

(e) EXPIRATION OF WAIVER AUTHORITY.—Any waiver in effect by reason of the exercise of the waiver authority under subsection (a) shall terminate on the date that is 4 years after the date of the enactment of this Act. The waiver authority under subsection (a) may not be exercised beginning on the date that is 3 years after the date of the enactment of this Act.

(f) CONTINUATION OF RESTRICTIONS AGAINST THE GOVERNMENT OF NORTH KOREA.—

(1) IN GENERAL.—Except as provided in subsection (a)(1), restrictions against the Government of North Korea that were imposed by reason of a determination of the Secretary of State that North Korea is a state sponsor of terrorism shall remain in effect, and shall not be lifted pursuant to the provisions of law under which the determination was made, unless the President certifies to the appropriate congressional committees that—

(A) the Government of North Korea is no longer engaged in the transfer of technology related to the acquisition or development of nuclear weapons, particularly to the Governments of Iran, Syria, or any other country that is a state sponsor of terrorism;

(B) in accordance with the Six-Party Talks Agreement of February 13, 2007, the Government of North Korea has ''provided a complete and correct declaration of all its nuclear programs,'' and there are measures to effectively verify this declaration by the United States which, ''[a]t the request of the other Parties,'' is leading ''disablement activities'' and ''provid[ing] the funding for those activities''; and

(C) the Government of North Korea has agreed to the participation of the International Atomic Energy Agency in the monitoring and verification of the shutdown and sealing of the Yongbyon nuclear facility.

(2) STATE SPONSOR OF TERRORISM DEFINED.—In this subsection, the term ''state sponsor of terrorism'' means a country the government of which the Secretary of State has determined, for purposes of section 6(j) of the Export Administration Act of 1979 (as continued in effect pursuant to the International Emergency Economic Powers Act), section 40 of the Arms Export Control Act, section 620A of the Foreign Assistance Act of 1961, or any other provision of law, is a government that has repeatedly provided support for acts of international terrorism.

(g) REPORT ON VERIFICATION MEASURES RELATING TO NORTH KOREA'S NUCLEAR PROGRAMS.—

(1) IN GENERAL.—Not later than 15 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report on verification measures relating to North Korea's nuclear programs under the Six-Party Talks Agreement of February 13, 2007, with specific focus on how such verification measures are defined under the Six-Party Talks Agreement and understood by the United States Government.

(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include, among other elements, a detailed description of—

(A) the methods to be utilized to confirm that North Korea has ''provided a complete and correct declaration of all of its nuclear programs'';

(B) the specific actions to be taken in North Korea and elsewhere to ensure a high and ongoing level of confidence that North Korea has fully met the terms of the Six-Party Talks Agreement relating to its nuclear programs;

(C) any formal or informal agreement with North Korea regarding verification measures relating to North Korea's nuclear programs under the Six-Party Talks Agreement; and

(D) any disagreement expressed by North Korea regarding verification measures relating to North Korea's nuclear programs under the Six-Party Talks Agreement.

(3) FORM.—The report required under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(h) DEFINITIONS.—In this section—

(1) the term ''appropriate congressional committees'' means—

(A) the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate;

(2) the terms ''non-nuclear-weapon state'', ''design information'', and ''component'' have the meanings given such terms in section 102 of the Arms Export Control Act (22 U.S.C. 2799aa–1); and

(3) the term ''Six-Party Talks Agreement of February 13, 2007'' or ''Six-Party Talks Agreement'' means the action plan released on February 13, 2007, of the Third Session of the Fifth Round of the Six-Party Talks held in Beijing among the People's Republic of China, the Democratic People's Republic of Korea (North Korea), Japan, the Republic of Korea (South Korea), the Russian Federation, and the United States relating to the denuclearization of the Korean Peninsula, normalization of relations between North Korea and the United States, normalization of relations between North Korea and Japan, economy and energy cooperation, and matters relating to the Northeast Asia Peace and Security Mechanism.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, May 21, 2008 in room 406 of the Dirksen Senate Office Building at 10 a.m.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 21, 2008, at 9:15 a.m., to hold a hearing on defense trade cooperation treaties with the United Kingdom and Australia.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, May 21, 2008.

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

COMMITTEE ON THE JUDICIARY

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, to conduct a hearing entitled ''Exploring the Skyrocketing Price of Oil'' on Wednesday, May 21, 2008, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, May 21, 2008, at 2 p.m., to hear testimony on pending nominations.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, May 21, 2008, at 2:45 p.m.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. HARKIN. Mr. President, I ask unanimous consent for the Committee on Veterans' Affairs to be authorized to meet during the session of the Senate on Wednesday, May 21, 2008, to conduct a hearing. The Committee will meet in room 418 of the Russell Senate Office building, at 9:30 a.m.

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

SUBCOMMITTEE ON RURAL REVITALIZATION, CONSERVATION, FORESTRY AND CREDIT

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry, Subcommittee on Rural Revitalization, Conservation, Forestry and Credit, be authorized to meet during the session of the Senate on Wednesday, May 21, 2008 at 2:30 p.m. in room 332 of the Russell Senate office building.

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

PRIVILEGES OF THE FLOOR

Mr. TESTER. Mr. President, on behalf of Senator DODD, I ask unanimous consent that LCDR Christopher Martin, a congressional fellow in Senator DODD's office, be allowed floor privileges for the duration of the debate on H.R. 2642.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that Alissa Doobay of my staff be granted floor privileges for the duration of today's session.

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

Mr. REED. Mr. President, I ask unanimous consent that a fellow in my office, LCDR John Croghan, be granted the privilege of the floor for the remainder of the debate on the supplemental bill.

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

THANKING THE PRESIDING OFFICER AND STAFF

Mr. REID. Mr. President, first of all, let me express my appreciation to you for your patience and, of course, all the staff. We have been trying to get where we are. It has been a long night. Hopefully, this is pointing us in the right direction.

UNANIMOUS-CONSENT AGREEMENT—HOUSE MESSAGE ON H.R. 2642

Mr. REID. Mr. President, I ask unanimous consent that following any leader time on Thursday, May 22, the Senate then resume consideration of the House message on H.R. 2642, and there be 2 hours of debate equally divided and controlled between the leaders or their designees; that upon the use or yielding back of time, the cloture motion with respect to the Reid motion to concur in House amendment No. 2 with an amendment be withdrawn, and the Reid second-degree amendment be withdrawn; that the Senate then proceed to vote on adoption of the motion to concur in House amendment No. 2 with an amendment; that the motion to concur be subject to an affirmative 60-vote threshold, that if the motion achieves that threshold, it be agreed to, and the motion to reconsider be laid upon the table; that if the motion to concur fails to achieve 60 votes, it be withdrawn, and Senator REID be recognized to move to concur in House amendment No. 2 with an amendment which is the Webb GI bill; that the motion be subject to an affirmative 60-vote threshold; and that if it achieves that threshold, the motion to concur be agreed to, and the motion to reconsider be laid upon the table: that if it fails to achieve 60 affirmative votes, it be withdrawn, and the Senate disagree to House amendment No. 2; that upon disposition of House amendment No. 2, Senator REID be recognized to move to concur in House amendment No. 1 with an amendment which is the text of the committee-reported amendments Nos. 2 and 3 on funding and Iraq policy; that Senator SANDERS then be recognized to make a rule XVI point of order against section 11312 of the Reid motion; that if the point of order is sustained, Senator REID be recognized to move to concur in House amendment No. 1 with an amendment which is the text of committee amendments Nos. 2 and 3 minus section 11312; that it be subject to a 60 affirmative vote threshold, and that if it achieves that threshold, it be agreed to, and the motion to reconsider be laid upon the table; that if it fails to achieve the 60-vote threshold, it be withdrawn, and Senator REID be recognized to move to concur in House amendment No. 1 with an amendment which is the text of the committee amendment No. 2 minus section 11312; that the motion be subject to an affirmative 60-vote threshold; and that if the motion achieves that threshold, it be agreed to, and the motion to reconsider be laid upon the table; if it fails to achieve that threshold, then it be withdrawn, and the Senate disagree to House amendment No. 1; that no further points of order be in order, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Thank you, Mr. President, very much.

ORDER OF BUSINESS

Mr. REID. I would now note for everyone within the sound of my voice, we are still having some problems with the farm bill because of the enrolling not having been done, as we understand it, in the House. They failed to enroll one section of the 15 sections. But we are going to deal with that tomorrow in some detail. And because of that, we will have to hold up doing the budget until we try to work something out tomorrow or at some later time.

SUPPORTING HUMANITARIAN ASSISTANCE IN SOMALIA

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from consideration of S. Res. 541 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 541) supporting humanitarian assistance, protection of civilians, accountability for abuses in Somalia, and urging concrete progress in line with the Transitional Federal Charter of Somalia toward the establishment of a viable government of national unity.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to this matter be printed in the RECORD.

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

The resolution (S. Res. 541) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 541

Whereas, despite the formation of the internationally recognized Transitional Federal Government (TFG) in 2004, there has been little improvement in the governance or stability of southern and central Somalia, and stability in the northern region of Puntland has deteriorated;

Whereas governance failures in Somalia have permitted and contributed to escalating violence, egregious human rights abuses, and violations of international humanitarian law, which occur with impunity and have led to an independent system of roadblocks, checkpoints, and extortion that hinders trade, business, and the delivery of desperately needed humanitarian assistance;

Whereas the Government of Ethiopia intervened in Somalia in December 2006 against the Islamic Courts Union (ICU) and continues to serve as the primary security force for the TFG in Somalia;

Whereas a United Nations Monitoring Group on Somalia report presented to the United Nations Security Council on July 20, 2007, alleged that Eritreans have provided arms to insurgents in Somalia as part of a long-standing dispute between Ethiopia and Eritrea that includes a series of interlocking proxy wars in the Horn of Africa;

Whereas the United Nations estimates that, as of April 2008, 2,000,000 people in Somalia need humanitarian assistance or livelihood support for at least the next 6 months, including 745,000 people who have fled ongoing insecurity and sporadic violence in Mogadishu over the past 16 months, adding to more than 275,000 long-term internally displaced Somalis;

Whereas, despite Prime Minister Nur Hassan Hussein's public commitment to humanitarian operations, local and international aid agencies remain hindered by extortion, harassment, and administrative obstructions;

Whereas, in March 2008, United Nations Secretary-General Ban Ki-moon presented his report on Somalia based on recent strategic assessments and fact-finding missions, which offered recommendations for increasing United Nations engagement while decreasing the presence of foreign troops, including the establishment of a maritime task force to deter piracy and support the 1992 international arms embargo;

Whereas the United States Government has allocated nearly $50,000,000 to support the African Union Mission in Somalia (AMISOM) and continues to be the leading contributor of humanitarian assistance in Somalia, with approximately $140,000,000 provided in fiscal year 2007 and fiscal year 2008 to date, but still lacks a comprehensive strategy to build a sustainable peace;

Whereas, over the last 5 years, the Senate has repeatedly called upon the President through resolutions, amendments, bills, oversight letters, and hearings to develop and implement a comprehensive strategy to contribute to lasting peace and security throughout the Horn of Africa by helping to establish a legitimate, stable central government in Somalia capable of maintaining the rule of law and preventing Somalia from becoming a safe haven for terrorists;

Whereas a February 2008 Government Accountability Office (GAO) report entitled, ''Somalia: Several Challenges Limit U.S. and International Stabilization, Humanitarian, and Development Efforts'', found that United States and international ''efforts have been limited by lack of security, access to vulnerable populations, and effective government institutions'' as well as the fact that the ''U.S. strategy for Somalia, outlined in the Administration's 2007 report to Congress on its Comprehensive Regional Strategy on Somalia, is incomplete'';

Whereas the recent designation by the Department of State of Somali's al Shabaab militia as a foreign terrorist organization under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) and as a specially designated global terrorist under section 1(b) of Executive Order 13224 (September 23, 2001) highlights the growing need for a strategic, multifaceted, and coordinated approach to Somalia; and

Whereas it is in the interest of the United States, the people of Somalia, and the citizens and governments of neighboring and other interested countries to work towards a legitimate peace and a sustainable resolution to the crisis in Somalia that includes civilian protection and access to services, upholds the rule of law, and promotes accountability: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States remains committed to the people of Somalia and to helping build the institutions necessary for a stable nation free from civil war and violent extremism;

(2) the President, in partnership with the African Union, the United Nations, and the international community, should—

(A) provide sufficient humanitarian assistance to those most seriously affected by armed conflict, drought, and flooding throughout Somalia, and call on the Transitional Federal Government to actively facilitate the dispersal of such assistance;

(B) ensure accountability for all state, non-state, and external parties responsible for violations of human rights and international humanitarian law in Somalia, including through the deployment of United Nations human rights monitors and the establishment of a United Nations Commission of Inquiry to investigate abuses;

(C) call on all parties to recommit to an inclusive dialogue, with international support, in the interest of promoting sustainable peace and security in Somalia and across the Horn of Africa;

(D) urge the Government of Ethiopia, in coordination with the United Nations Political Office in Somalia, to develop a clear timeline for the responsible withdrawal of its armed forces from Somalia, to honor its obligation under the Geneva Conventions to ensure protection of civilians under its control, and to observe the distinction between civilians and military combatants and their assets;

(E) urge the Government of Eritrea to play a productive role in helping to bring about stability to Somalia, including ceasing to provide any financial and material support, such as arms and ammunition, to insurgent groups in and around Mogadishu and throughout the region; and

(F) call on all countries in the region and wider international community to provide increased support for AMISOM and ensure a robust civilian protection mandate;

(3) to achieve sustainable peace in the region, the Transitional Federal Government, including the newly appointed Prime Minister and his Cabinet, should—

(A) take necessary steps to protect civilians from dangers related to military operations, investigate and prosecute human rights abuses, provide basic services to all the people of Somalia, and ensure that humanitarian organizations have full access to vulnerable populations;

(B) recommit to the Transitional Federal Charter;

(C) set a detailed timeline and demonstrate observable progress for completing the political transition laid out in the Transitional Federal Charter by 2009, including concrete and immediate steps toward scheduling elections as a means of establishing a democratically elected government that represents the people of Somalia; and

(D) agree to participate in an inclusive and transparent political process, with international support, towards the formation of a government of national unity based on the principles of democracy, accountability, and the rule of law.

RECOGNIZING CUBA SOLIDARITY DAY

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 573.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 573) recognizing Cuba Solidarity Day and the struggle of the Cuban people as they continue to fight for freedom.

There being no objection, the Senate proceeded to consider the resolution.

CUBA SOLIDARITY DAY

Mr. MENENDEZ. Mr. President, I and my colleagues wish to commemorate Cuba Solidarity Day and the struggle of the Cuban people against a constant denial of their basic liberties. Yesterday, we marked the day in 1902 when Cuba won its independence from Spain. Yesterday, we celebrated the birth of their nation; today, we express our hope that the island will experience a new birth of freedom. Today, we express our solidarity with Cuba's political prisoners, democracy advocates, and human rights activists who risk their lives so that freedom might live.

About 6 months ago I spoke on the Senate floor with my colleague, Senator MARTINEZ, to express outrage that 70 Cuban dissidents were arrested, detained, and harassed. These 70 Cubans, according to the Cuban regime, had committed the crime of peaceful assembly.

These young people were simply walking down a street in Havana. And while they were peacefully walking, they had on their arms this wristband. The simple white wristband says one word; ''cambio''.

Unfortunately, as we have seen for decades from this regime, this denial of a basic liberty was not an isolated incident.

This regime has been marked by fear and repression for decades. For decades, they have denied freedom of press, freedom of speech and freedom to peacefully assemble.

They have refused to hold free and fair elections which represent the will of the Cuban people.

They have denied the most basic human rights to its citizens.

But decades of fear and repression have also led to acts of courage.

And I stand here today in solidarity with all of the brave Cubans who have shown such acts of courage.

Currently, according to Amnesty International, Human Rights Watch and Reporters Without Borders, the Cuban regime is holding more than 220 political prisoners.

These heroes continue to sacrifice and fight so that one day the Cuban people will finally know freedom.

We in the Senate recently introduced a resolution to award a Congressional Gold Medal to Dr. Oscar Elias Biscet, in recognition of his courageous and unwavering commitment to democracy, human rights, and peaceful change in Cuba.

Dr. Biscet's fight serves as an example to all Cubans as well as a source of inspiration for us here.

Dr. Biscet, the hundreds of political prisoners and all Cubans who live with daily political repression have shown that Cuba will change. And this change will come from the Cuban people.

But they need our help. We must continue to fight here to do what we can to empower them. And we must continue to acknowledge them when they empower themselves.

Mr. ENSIGN. Mr. President, I rise in support of this resolution to recognize Cuba Solidarity Day and the struggle of the Cuban people as they continue to fight for freedom. Cuba Solidarity Day is a call for the world to join together in the fight against oppression in Cuba. It is a way of drawing attention to the injustices faced by the people of Cuba under the current regime and a way of saying that our country stands together with the Cuban people as they work toward democratic change.

I believe that it is our country's duty to push for a peaceful transition to democracy in Cuba. It is a travesty that, more than a decade after the Cold War ended, a brutal communist dictator is still oppressing people just miles off the coast of Florida.

The people of Cuba continue to be denied the most basic human rights and the freedoms of speech, press, and assembly. It is estimated that more than

220 individuals are being held as political prisoners by the communist regime in Cuba. For the dissidents suffering prison terms, and for their families and loved ones, their suffering is real. And it is our duty as a free nation to let them know that we remember them, that they are not forgotten, and that their suffering is for a purpose. They must know that the world is watching and that we will not rest and will not tire and will keep working to support them until they are finally free.

I am reminded of the story that Natan Sharansky tells about his time in the Soviet gulag, when word came that President Reagan had called the Soviet Union an ''Evil Empire.'' For the political prisoners, it was the first sign that they had not been forgotten. It was a signal to them that the leader of the world's most powerful democracy had no illusions about the true nature of that regime, that he knew of their plight and was ready to call the Soviet system what is was—evil.

This resolution sends a signal to all the dissidents and political prisoners in Cuba that we have no illusions about the nature of Castro's brother's brutal regime and that we know of their plight and stand ready to help them.

I truly believe there is hope. We are witnessing a remarkable time in history as freedom prevails in places that were once rife with oppression. As former Czech Republic President Václav Havel once said, ''without free, self-respecting, and autonomous citizens there can be no free and independent nations.'' It is now time for the world to voice its support of the Cuban people so they too can rise above the injustice of the communist regime and finally achieve the freedom and independence of a democratic nation.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 573) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 573

Whereas the Cuban regime continues to deny the basic human rights of its citizens;

Whereas the Cuban people are denied freedom of the press, freedom of speech, and freedom to peaceful assembly;

Whereas the Cuban regime refuses to hold free and fair elections in order to elect a democratic government that represents the will of the people;

Whereas Freedom House recently rated Cuba as 1 of the 8 most oppressive regimes in the world;

Whereas the Cuban regime is currently holding more than 220 political prisoners according to Amnesty International, Human Rights Watch, and Reporters Without Borders;

Whereas these prisoners are illegally held in prison contrary to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which Cuba has signed and recognizes;

Whereas 55 of the 75 political activists imprisoned in the March 2003 crackdown (known as ''Black Spring'') including independent journalists and union members, remain in prison;

Whereas the wives of these prisoners, known as the Ladies in White, continue to be assaulted for simply seeking information regarding the March 2003 arrests, most recently on April 21, 2008, when the Ladies in White were violently dragged from a peaceful sit-in by Cuban officials;

Whereas prisoners face inhuman and unsafe prison conditions, including the denial of medical treatment; and

Whereas on May 21, 2008 communities around the world will celebrate Cuba Solidarity Day, a day for the world to join together in the fight against oppression in Cuba: Now therefore, be it

Resolved, That the Senate—

(1) celebrates Cuba Solidarity Day;

(2) recognizes the injustices faced by the people of Cuba under the current regime; and

(3) stands in solidarity with the Cuban people as they continue to work towards democratic change in their homeland.

ORDERS FOR THURSDAY, MAY 22, 2008

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m. tomorrow, May 22; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved, and the Senate resume consideration of the House message to accompany H.R. 2641, the supplemental appropriations bill, as under the previous order.

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

PROGRAM

Mr. REID. Mr. President, under the previous order, the Senate will proceed to a series of up to four rollcall votes beginning shortly after 11:30 a.m. tomorrow. I am sorry to everyone involved that we didn't have this finalized earlier, but we were unable to do it any sooner.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 9:29 p.m., adjourned until Thursday, May 22, 2008, at 9:30 a.m.