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, or hearing impairment;
Whereas approximately 32,500,000, or 15 percent, of adults in the United States report some degree of hearing loss;
Whereas 40% already have hearing loss; 40% of 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 slow, slurred, and garbled; and
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 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 32,500,000 students in the United States could benefit from language impairment services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);
Whereas, with language impairments 4 to 5 times more likely than their peers to experience reading problems;
Whereas 10 percent of children entering the first grade at grade to severe speech disorders, including stuttering;
Whereas more than 3,000,000 people in the United States are still stutters;
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, whether or not resulting from hearing and speech impairments or related dysfunctions.

Resolved by the Senate (the House of Representatives concurring), That Congress—
(1) supports the goals and ideals of National Better Hearing and Speech Month, and
(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 checked regularly and to avoid environmental noise that can lead to hearing loss; and
(5) commends the 46 States that have implemented screening programs for every newborn before the newborn leaves the hospital.

AMENDMENTS SUBMITTED AND PROPOSED
SA 4806. Mr. CORKIER 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 4807. Mr. CORKIER (for himself, Mr. BINGMAN, Mr. HARKIN, Mr. MENENDEZ, Mr. MENendez, Mr. C. F. GILBERT, 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 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. LUTENBERG, Mr. BOXER, 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. DOLÉ 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 4800 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”, $350,000,000, to remain available until expended.

For an additional amount for “Public Law 480 Title II Grants”, $350,000,000, 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”, $1,948,000, 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”, $164,965,000, to remain available until September 30, 2009.

FEDERAL BUREAU OF INVESTIGATION
SALARIES AND EXPENSES
For an additional amount for “Salaries and Expenses”, $352,600,000 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”, $32,666,000, 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”, $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, 2010; **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 available under this heading and 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”, $300,081,000: 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 the funds made available under this heading, $270,785,000 shall be 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”, $811,800,000: 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 within 30 days of enactment of this Act the Secretary shall submit to the Committees on Appropriations of both Houses of Congress a 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, Navy and Marine Corps”, there is hereby appropriated an additional $70,600,000, to remain available until September 30, 2012, for the acceleration and completion of youth center construction as proposed in the fiscal year 2010 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 headings “Military Construction, Navy and Marine Corps”, there is hereby appropriated an additional $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 within 30 days of enactment of this Act the Secretary shall submit to the Committees on Appropriations of both Houses of Congress an expenditure proposal for the fiscal year 2012 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, Army”, there is hereby appropriated an additional $5,100,000, 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 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. 1304. In addition to amounts otherwise appropriated or made available under the heading “Military Construction, Army”, there is hereby appropriated an additional $27,600,000: Provided, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

**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, 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.

**DEPARTMENT OF DEFENSE BASE Closure and Realignment Act of 2005**

For deposit into the Department of Defense Base Closure Account 2005, established by section 2936A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2677 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”, $1,413,700,000, 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 a plan for funds provided under this heading.

**S4628**

**CONGRESSIONAL RECORD—SENATE**

May 21, 2008

retary, 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.

**NATIONAL GUARD AND RESERVE BOARDS**

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 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 hostility (as that term is defined in section 1712(a)(2)(B) of this title) after September 11, 2001.

**SECTION 1305. COLLECTION OF CERTAIN INDEBTEDNESS**

That notwithstanding section 5302 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.

**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.

**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 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, not more than $30,000,000 shall be made available to establish the United States Consulate in Lhasa, Tibet as a United States Consulate.

**DEPARTMENT OF DEFENSE**

**APPROPRIATIONS FOR FISCAL YEAR 2008**

**MILITARY CONSTRUCTION, NAVY AND MARINE CORPS**

For an additional amount for “Military Construction, Navy and Marine Corps”, $300,081,000: Provided, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.
OFFICE OF INSPECTOR GENERAL
(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Office of Inspector General”, $125,000,000, 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”, $330,500,000, to remain available until September 30, 2009, of which $330,500,000 shall be for programs and activities in Africa, and $5,000,000 shall be for programs and activities in the Western Hemisphere.

INTERNATIONAL DEVELOPMENT

EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for “International Development”, $2,500,000,000, to remain available until September 30, 2009: Provided, That not more than $200,000,000 of the funds appropriated under this heading in this subchapter shall be made available 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 of Appropriations.

Provided further, That the funds made available under this heading for energy-related assistance 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”, $50,000,000, 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 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 IMMIGRATION ASSISTANCE FUND

For an additional amount for “United States Emergency Refugee and Migration Assistance Fund”, $36,608,000, to remain available until September 30, 2009.

NONPROLIFERATION, ANTI-TERROISM, DEMINING AND RELATED PROGRAMS

For an additional amount for “Nonproliferation, Anti-Terrorism, Demining and Related Programs”, $5,000,000, to remain available until September 30, 2009.

MILITARY ASSISTANCE FUND

APPROPRIATED TO THE PRESIDENT

For an additional amount for “Military Assistance Fund” 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 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 $50,000,000 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”, $150,500,000, 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 FUND

APPROPRIATED TO THE PRESIDENT

GLOBAL HEALTH ASSISTANCE

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 experiencing an international food crisis notwithstanding any other provision of law, 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

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.

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.

OFFICE OF INSPECTOR GENERAL


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”, $83,000,000, which shall become available on October 1, 2008 and remain available until September 30, 2009.
For an additional amount for ‘‘Operating Expenses of the United States Agency for International Development’’ $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’’ $1,192,000,000 which shall become available on October 1, 2008 and remain available through September 30, 2009, of which not more than $10,000,000 may be made available for Jordan, not more than $450,000,000 may be made available for assistance for Afghanistan, not more than $100,000,000 shall be made available for assistance for Jordan, not more than $450,000,000 may be made available for assistance for Afghanistan, not more than $100,000,000 shall 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’’ $1,450,000,000, for humanitarian demining assistance for Iraq, which shall become available on October 1, 2008 and remain available through September 30, 2009.

MILITARY ASSISTANCE

Funds Appropriaed to the President

FOR FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for ‘‘Foreign Military Financing Program’’ $154,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, of which not more than $100,000,000 shall be made available for assistance for Jordan: Provided, That this section 892(b)(3)(B) of title III, chapter 8 of Public Law 110–28 shall apply to funds made available under this heading for assistance for Jordan.

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.

AFGHANISTAN

SEC. 1403. (a) ASSET TRANSFER AGREEMENT.—

(1) None of the funds appropriated by this chapter for infrastructure maintenance activity for Afghanistan prior to the Secretary of State certifies and reports to the Committees on Appropriations that the governments of the United States and Iraq have entered into an agreement implementing, an asset transfer agreement that includes commitments by the Government of Iraq to maintain United States-funded infrastructure in Iraq, the Secretary of State shall submit a report to the Committees on Appropriations detailing the amounts provided by the Government of Iraq plans to provide in fiscal year 2008 to assist refugees, and the amount of such assistance 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 for the purposes of assistance for refugees.

(2) None of the funds appropriated by this chapter may be used for the construction of prison facilities in Iraq.

(3) 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, 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 that the Government of Iraq has developed, and is being implemented, a comprehensive anti-corruption strategy.

(4) Assistance for refugees, internally displaced persons, and civilian victims of the military operations.

(5) The Secretary of State shall certify to the Committees on Appropriations that the governments of the United States and Iraq have entered into an agreement implementing an asset transfer agreement that includes commitments by the Government of Iraq to maintain United States-funded infrastructure in Iraq, the amount of such assistance the Government of Iraq plans to provide in fiscal year 2008 to assist refugees, and the amount of such assistance 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 for the purposes of assistance for refugees.

(C) CIVILIAN ASSISTANCE.—Of the funds appropriated by this chapter, the Secretary of State shall submit a report to the Committees on Appropriations detailing the amounts provided by the Government of Iraq plans to provide in fiscal year 2008 to assist refugees, and the amount of such assistance 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 for the purposes of assistance for refugees.
$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 government, 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), no waiver of any kind, 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. 279aa-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 (A) of section 102(b) of the Arms Export Control Act, unless the President determines and certifies to the appropriate congressional committees that—

(A) steps will be taken to assure that the agreements 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 OF THE NATIONAL HUMAN RIGHTS COMMISSION.—The President determines and certifies to the appropriate congressional committees that 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; or

(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 the 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 enactment of this Act.

(c) NOTIFICATIONS AND REPORTS.—

(1) CONGRESSIONAL NOTIFICATION.—The President shall notify the appropriate congressional committees not later than 15 days before exercising the waiver authority under subsection (a).

(2) ANNUAL REPORT.—Not later than January 31 of each year thereafter, the President shall submit to the appropriate congressional committees a report that—

(A) lists all waivers issued under subsection (a) after the date of enactment of this Act; and

(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 and 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 economic and social development 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 no funds made available under this section shall be available for obligation until the Secretary of State determines and reports 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, promoting democratic institutions and processes, preventing corruption, and strengthening the rule of law, with concrete goals, actions to be taken, budget proposals, and anticipated results.

(b) ALLOCATION OF FUNDS.—Twenty-five percent of the funds made available by this section for the purpose of combating drug trafficking and related violence and organized crime, judicial reform, anti-corruption, and economic and social development activities 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; and

(C) establishing an independent mechanism, with representation from civil society, the media, the judiciary, law enforcement, and the international community, to investigate and seek redress for human rights violations and other abuses.

(c) 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 heading ‘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 through drug law reform and implementation, and rule of law activities: Provided, That the funds appropriated under this heading “Economic Support Fund”, $40,000,000 shall be available through the United States Agency for International Development for an Economic and Social Development Fund for Central America: 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 the purposes provided for in this section, and the funds shall be available for obligation for assistance for Guatemala, not less than $1,000,000 shall be made available for a United Nations contribution to the International Criminal Court. Provided further, That the funds made available pursuant to this section, $5,000,000 shall be made available for assistance for Haiti and $26,000,000 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, which shall include a strategy for combating drug trafficking and related violence, and human rights organizations, and human rights organizations in the countries of Central America, Haiti, and the Dominican Republic respectively, to be provided through the United States Agency for International Development for an Economic and Social Development Fund for Central America, Haiti, and the Dominican Republic respectively, subject to prior consultation with the Committees on Appropriations and section 634A of the routine notification procedures of the Committees on Appropriations and the cases or issues brought to the attention of the Secretary of State shall consult with the Committees on Appropriations and in subchapter A shall be subject to the requirements described in subsection (b).

(g) DEFINITIONS. 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 used for administrative expenses of the United States Agency for International Development for programs in the Andean region of South America. These funds may be used to reimburse funds appropriated or otherwise made available for purposes incurred by the United States Agency for International Development for obligations incurred for the purposes provided under this section prior to the date of enactment of this Act.

(b) AUTHORITY. — Funds appropriated or otherwise made available under title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110-161) may be used for administrative expenses of the United States Agency for International Development for obligations incurred for the purposes provided under this Act and to monitor the uses of such assistance.

(d) REIMBURSEMENTS. — Any agreement for the transfer or contribution of funds appropriated by this Act, or prior Acts, entered into between the United States Agency for International Development and another government under the authority of section 622(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 1002 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 609(k) 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 “Economic Support Fund” and allocated by section 3810 of the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Fund 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 the purposes provided under the heading “Economic Support Fund” in title III of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696).

(b) Section 29(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 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 damages 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 and made available with, and merged with, funds provided under the heading “Embassy Security, Construction, and Maintenance” to be used for emergency 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 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.

CONGRESSIONAL RECORD — SENATE
May 21, 2008

S4632

RESOLUTIONS

(SPECIFIC RESOLUTIONS)
SEC. 1140. (a) WORLDFOOD PROGRAM. — (1) For an additional amount for a contribution to the World Food Program to assist countries in combating 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, 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, 2008, subject to prior consultation with the Committees on Appropriations.

SEC. 1407. 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 used for administrative expenses of the United States Agency for International Development for purposes provided under this section prior to the date of enactment of this Act.
(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” and “Peacekeeping Operations”, $40,000,000 are appropriated 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.

SEC. 1411. Funds appropriated under the headings “Foreign Military Financing Program” and “Peacekeeping Operations” by the Defense Appropriations Act, 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 mission 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, 2321) 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. 2309A(a)(2), 2371, 2378a) and section 61A 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, construct, and modify facilities.

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 emergency purchase and distribution of food to address the international food crisis: Provided further, That notwithstanding any other provision of law, the funds appropriated under this heading may be made available for assistance for the State Peace and Development Council.

(b) Of the unobligated balances of funds appropriated under the heading “Millennium Challenge Corporation” in prior Acts making appropriations for foreign operations, export financing and related programs, $25,000,000 are rescinded.

(c) Section 10002 of title X of this Act shall not apply to this section.

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. 1162, 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 transfer or lease helicopters necessary to the operations of the African Union/United Nations peacekeeping mission 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, 2321) 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. 2309A(a)(2), 2371, 2378a) and section 61A 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, construct, and modify facilities.

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 andRefugee Assistance”, and “United States Emergency Refugees and Migration Assistance Fund”.

(b) Subchapter B Spending Plan.—The Secretary of State shall submit to the Committees on Appropriations a report detailing planned expenditures for funds appropriated under the headings in subchapter B, except for funds appropriated under the headings “International Disaster Assistance”, “Migration and Refugee Assistance”, and “United States Emergency Refugees 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 Defense Appropriations Act, 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, $285,000,000, to remain available until September 30, 2009: Provided, That 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) $10,000,000 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 or of 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 oversight and audit of the Census Bureau with oversight of the 2010 Decennial Census: Provided further, That $1,000,000 shall be used only for a reimbursable agreement with the Department of Defense 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.
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 institutions serving 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 specific educational and technical 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 DECOMMISSIONING AND DECONTAMINATION FUND

For an additional amount for ‘‘Uranium Enrichment Decommissioning and Decontamination Fund’, not to exceed $92,000,000, 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–FC26–06DP00733, as 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 ‘‘(ii)’’ and inserting ‘‘(ii) In each of the calendar years 2010 and 2011, not more than 45,000 kilograms.’’;

(2) in section 3112(a), by striking ‘‘The Secretary’’ and inserting ‘‘Except as provided in section 3112(a)(4), the Secretary’’;

(3) by striking ‘‘under contract or otherwise’’; and

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 50 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(a).

(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 product’’ means a uranium product in any form, including uranium hexafluoride (UF₆) and uranium oxide (UO₂), 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(c).

(7) URANIUM–235.—The term ‘‘uranium–235’’ means the isotope ²³⁵U.

(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 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.

(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, the Secretary of Energy shall—

(i) provide the Russian Federation with 30,000 tons of uranium–235, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation.

(ii) in each of the calendar years 2010 and 2011, not more than 67,500 kilograms.

(iii) provide additional amounts for ‘‘Uranium Enrichment Decommissioning and Decontamination Fund’’, not to exceed $75,000,000, to remain available until expended.

(iv) 10,000 tons of uranium–235, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation.

(B) ADDITIONAL IMPORTS.—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, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation, may not exceed 400,000 kilograms.
ever 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).

"(11) MAXIMUM ANNUAL IMPORTS.—Not more than 200,000 kilograms of low-enriched uranium may be imported in a calendar year under paragraph (7) of this subsection.

"(12) EXCEPTION WITH RESPECT TO INITIAL CORES.—The import limitations described in paragraphs (1) and (2) shall not apply to low-enriched uranium obtained in the Russian Federation that is imported into the United States for use in the initial core of a new nuclear reactor.

"(13) 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)(1)) 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 is inadequate to meet demand in the United States for the current calendar year; and

(B) not less than 45 days before making the adjustment.

(6) EQUIVALENT QUANTITIES OF LOW-ENRICHED UURANIUM.—

"(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 UURANIUM.—Imports of low-enriched uranium under paragraphs (2)(A) and (2)(B) shall be adjusted against the import limitations described in such paragraphs in amounts calculated as the quantity of low-enriched uranium containing 4.4 percent uranium-235 and a tails assay of 0.3 percent necessary to equal the total amount of uranium-235 contained in such imports.

(7) DOWNSIZING OF OTHER HIGHLY ENRICHED UURANIUM IMPORTS.

"(A) IN GENERAL.—The downblending of highly enriched uranium not of weapons origin may be counted for purposes of paragraphs (2)(B), (7), and (8)(B) 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 UURANIUM.—For purposes of determining the amount of highly enriched uranium imports allowed under paragraph (2)(B) and for purposes of paragraph (8)(B), highly enriched uranium not of weapons origin downblended under paragraph (A) shall count as downblended highly enriched uranium of weapons origin in amounts calculated as the quantity of highly enriched uranium containing 235-uranium 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 DOWNSIZING OF AN ADDITIONAL 300 METRIC TONS OF HIGHLY ENRICHED UURANIUM.

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 high enriched uranium of weapons origin have been downblended.

"(9) SPECIAL RULE IF IMPORTATION UNDER RUSSIAN HEU AGREEMENT TERMINATES DURING SPECIFIED PERIOD.-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 downblended 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 shall employ the transparency measures provided for in the Russian HEU Agreement for monitoring the downblending of Russian highly enriched uranium, 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 minimizes any potential burden on the commercial nuclear industry.

"(12) EFFECT ON OTHER AGREEMENTS.—

(A) RUSSIAN HEU AGREEMENT.—Nothing in this section shall 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.

(C) DOWNSIZING OF LOW 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) if the Secretary determines that a nuclear reactor in the United States—

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 "General 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.


(b) CONSTRUCTION.—For purposes of construing and applying chapter 87 of title 5, United States Code, including any adjustment of insurance rates required by section 377 of title 28, 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;


(3) Bankruptcy judges retired under section 377 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, effective date.

SEC. 2403. Life Insurance for Tax Court Judges Age 65 or Over. (a) IN GENERAL.—Sec. 7402 of the Internal Revenue Code of 1986 is amended by inserting after the word “im- pacted”, wherever it appears in the second sentence of section 24 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614(a)).

SEC. 2404. Secure Rural Schools Act Amendments. (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 Self-Determination Act of 2000 (Public Law 106-393; 16 U.S.C. 500 note), not to exceed

CHAPTER 5
GENERAL PROVISION—THIS CHAPTER
SEC. 2501. SIKUHE 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 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 under the 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 subsections (a) through (d) of section 2694 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 Act, out of any money in the Unemployment Compensation Account in the Unemployment Service Operations

(c) Of the amount appropriated 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 is less than $725,000,000, $100,000,000, and the payments shall be made, to the maximum extent practicable, in the same manner as were made to States and counties under the Act.

(d) Funds appropriated under subsection (a) 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. 2692. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES. (a) STUDY.—No earlier than March 15, 2008, the President shall transmit to Congress its first report on the impact of past and future minimum wage increases. The report shall include a study of the impact of the minimum wage on employment and the living standards of workers, including assessing how the minimum wage affects the re-use of syringes in outpatient clinics, including reimbursement of local health departments for testing and genetic sequencing of persons potentially exposed.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

CHAPTER 6
DEPARTMENT OF LABOR
EMPLOYMENT AND TRAINING ADMINISTRATION
STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES 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, 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 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 further, 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 Director, Center for Scientific Review, the Center for Information Technology, the Clinic, 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. 2691. (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) for the fiscal year 2008, for making payments under subsections (a) through (d) of section 2694 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 Act, out of any money in the Unemployment Compensation Account in the Unemployment Service Operations

(b) Of the amount appropriated 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 is less than $725,000,000, $100,000,000, and the payments shall be made, to the maximum extent practicable, in the same manner as were made to States and counties under the Act.

(c) From the amount appropriated 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 is less than $725,000,000, $100,000,000, and the payments shall be made, to the maximum extent practicable, in the same manner as were made to States and counties under the Act.

(d) Funds appropriated under subsection (a) 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. 2692. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES. (a) STUDY.—No earlier than March 15, 2008, the President shall transmit to Congress its first report on the impact of past and future minimum wage increases. The report shall include a study of the impact of the minimum wage on employment and the living standards of workers, including assessing how the minimum wage affects the re-use of syringes in outpatient clinics, including reimbursement of local health departments for testing and genetic sequencing of persons potentially exposed.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

CHAPTER 7
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 31, United States Code.

CHAPTER 8
RELATED AGENCY
AMERICAN BATTLE MONUMENTS COMMISSION

SEC. 8104. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES. (a) STUDY.—No earlier than March 15, 2008, the President shall transmit to Congress its first report on the impact of past and future minimum wage increases. The report shall include a study of the impact of the minimum wage on employment and the living standards of workers 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

(b) FUTURE MINIMUM WAGE INCREASES.—The President shall transmit to Congress its first report on the impact of 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 with full consideration of 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 the dollar.

CHAPTER 9
DEPARTMENT OF AGRICULTURE

FARM SERVICE AGENCY

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 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 43302(f)(1) and inserting “August 31, 2009,”

(2) by striking “December 31, 2008,” in section 43302(f)(1) and inserting “December 31, 2009,” and

(3) by striking “December 31, 2008,” in section 43303(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 $94,413,000, to remain available until expended.

NATURAL RESOURCES CONSERVATION SERVICE
WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for “Watershed and Flood Prevention Operations”, $130,464,000, to remain available until expended.

GENERAL PROVISION—THIS CHAPTER (INCLUDING REPESSION)

SEC. 3101. Of the funds made available in the second paragraph under the heading “Bureau of Economic Analysis, Economic Fluctuations Pro- gram 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 of 2006 (Public Law 109–148, 119 Stat. 2383). The Secretary may use any unspent funds that are 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 Electric revolving fund established under section 4235a of Title 16, 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 this paragraph are re-designated and available until September 30, 2009.

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, 2009: Provided, That $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 the consequences of Hurricane Katrina and other natural disasters, $3,368,400,000, to remain available until expended:

For an additional amount for economic development assistance as provided by section 3082(a) of the Water Resources Development Act of 2007, 2009: Provided, That $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, 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

S 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 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 6, 1996 (16 U.S.C. 411 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.) or the Secretary’s necessary special designations and implementation under section 504 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 made available under this heading to modify authorized projects in southeast Louisiana to provide hurricane and storm damage reduction and flood damage reduction in areas caused by hurricanes Katrina and Rita, and to provide protection to areas whereprojects are needed to ensure the safety and protection of communities and ecosystems, and for the design and construction of new projects as necessary to accomplish the established goals, 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 $575,000,000 of the funds made available under this heading to address emergency situations at Corps of Engineers projects and rehabilitate and repair damages to Corps projects caused by hurricanes Katrina and Rita, and for any other Act for fiscal year 2008 or 2009 or any other Act for fiscal year 2008 or 2009: Provided further, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a 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” for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes in the Gulf of Mexico, and Pandemic Influenza Act of 2007 (Public Law 110–343) (including the procedures for implementation and any other Act for fiscal year 2008 or 2009: Provided further, That none of this $4,362,000,000 shall become available for obligation until October 1, 2008: Provided further, That no funds made available under this heading to any area in the marine environment of the Exclusive Economic Zone of the United States for any purpose 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 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 arming critical elements of the New Orleans hurricane and storm damage reduction system; $3,368,400,000, to remain available until expended: Provided, That the expenditure 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, $3,368,400,000, to remain available until expended:

For an additional amount for economic development assistance as provided by section 3082(a) of the Water Resources Development Act of 2007, 2009: Provided, That $75,000,000, to remain available until September 30, 2009.

For an additional amount for economic development assistance as provided by section 3082(a) of the Water Resources Development Act of 2007, 2009: Provided, That $75,000,000, to remain available until September 30, 2009.

For an additional amount for economic development assistance as provided by section 3082(a) of the Water Resources Development Act of 2007, 2009: Provided, That $75,000,000, to remain available until September 30, 2009.
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, 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 or 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, shall continue the NEPA alternative evaluation of all options with particular attention to Options 1, 2 and 2a of the report dated August 30, 2007, provided in response to the requirements of chapter 3, section 406 of the Public Law 110–34 of the Flood Modernization Act of 2007 is provided further, That 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. For the 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 as of the date of enactment of this Act. CHAPTER 6 DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT WILDLAND FIRE MANAGEMENT (INCLUDING TRANSFERS 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, and of which $25,000,000 is 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 payment 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 1615. Departmental policies issued 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 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.

(a) EDUCATIONAL ASSISTANCE AUTHORIZED.—

(1) IN GENERAL.—Part III of title 38, United States Code, is amended by inserting after chapter 32 the following new chapter:

CHAPTER 33—POST-9/11 EDUCATIONAL ASSISTANCE

"SUBCHAPTER I—DEFINITIONS"

"Sec.

3301. Definitions.

3302. Bar to duplication of educational assistance.

3303. Public-private contributions for additional educational assistance.

3304. Additional assistance: relocation or travel assistance for individual relocating or traveling significant distance for pursuit of a program of education.

3305. Administration.

3306. Allocation of administration and costs.

"SUBCHAPTER II—EDUCATIONAL ASSISTANCE"

3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement.

3312. Educational assistance: duration.

3313. Educational assistance: amount; payment.

3314. Tutorial assistance.

3315. Licensure and certification tests.

3316. Supplemental educational assistance: members serving as commissioned officers; critical skills or specialty; members serving additional service.

3317. Public-private contributions for additional educational assistance.

3318. Additional assistance: relocation or travel assistance for individual relocating or traveling significant distance for pursuit of a program of education.

"SUBCHAPTER III—ADMINISTRATIVE PROVISIONS"

3321. Time limitation for use of and eligibility for entitlement.

3322. Bar to duplication of educational assistance benefits.

3323. Administration.

3324. Allocation of administration and costs.

"SUBCHAPTER I—DEFINITIONS"

3301. Definitions.

"In this chapter:

(1) The term ‘active duty’ has the meanings as follows (subject to the limitations specified in sections 3002(d) 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 in the Act or 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

(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)—

(i) continues on active duty; or

(ii) is discharged or released from active duty as described in subsection (c).

(3) 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 (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).

(4) 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 (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).

(5) 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; or

(ii) 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 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; or

(ii) 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; or

(ii) 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; or

(ii) is discharged or released from active duty as described in subsection (c).

(b) 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 characterized by the Secretary as honorable discharge.

(2) A release after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service.

(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.

(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 3191(b) of title 10.

(2) A period of service on active duty of an officer pursuant to an agreement under section 3401, 6659, 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.

(4) TREATMENT OF INDIVIDUALS ENTITLED UNDER MULTIPLE PROVISIONS.—In the event an individual entitled to educational assistance under this chapter is entitled by reason of paragraphs (a) and (b) of this subsection, the individual shall be treated as being entitled to educational assistance under this chapter by reason of paragraph (a) 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 be charged against any entitlement to educational assistance of the individual concerned under this chapter or

(B) be counted against the aggregate period prescribed for purposes of subsection (a) or (b) which 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) in the case of an individual not serving on active duty, had to discontinue such course pursuant 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

(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 subparagraph, educational assistance is not charged against entitlement or counted toward the applicable aggregate period under section 3313 of this title shall be equal to 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 subsection (e)) 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 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 3152(b)(1) of this title) and is approved for purposes of section 3313 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) the amount equal to the established charges for the program of education, except that the amount payable under this subparagraph shall not be more than the maximum amount of established charges regularly charged in-State students for full-time pursuit of approved programs of education for undergraduate 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 on a full-time basis, the amount payable under this subsection for the program of education involved would be

(1) the amount under paragraph (1) rather than this paragraph;

(2) the amount under paragraph (1) for the program of education involved would be

(1) the amount of the charges of the educational institution involved for the quarter, semester, or term, as applicable, of the program of education;

(3) the amount under paragraph (1) for the program of education involved would be

(1) the amount under paragraph (1) multiplied by

(1) the portion of a month which such benefits are provided to an individual 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 $1,200 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 to the amounts of educational assistance paid the individual under section 3313 of this title.
§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.

§3316. Supplemental educational assistance: members with critical skills or specialty; members serving additional service

(a) Increased assistance for members with critical skills or specialty.—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 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).

(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 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 this chapter of supplemental educational assistance for additional service authorized by subchapter III of chapter 30 of this title shall be treated as a reference to eligibility for educational assistance under the appropriate provision of this chapter.

(c) The amount of supplemental educational assistance payable under this subsection shall be the amount equal to the monthly amount of supplemental educational assistance payable under section 3202 of this title.

(d) Regulations.—The Secretary 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.

(1) The program shall only apply to covered individuals described in paragraphs (1) and (2) of section 3311 of this title.

(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 the running of the 15-year period beginning on the date of such individual’s last discharge or release from active duty.

(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 pay an additional amount equal to 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 through the Department of Defense available to the public a current list of the colleges and universities participating in the program under this section. The list shall include both college or university so listed, 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) Assistance for relocation or travel 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 to another 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.

§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 to educational assistance shall begin 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 sections 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(c) 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 3031 of this title shall be deemed to be a reference to 3312 of this title.

(c) For purposes of subsection (a), an individual whose 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 3111(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 educational loan under chapter 199 of title 38 shall 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 30 may be credited.

“(d) ADDITIONAL COORDINATION.—In the case of an individual entitled to educational assistance under chapter 33 of title 38, chapter 30, 31, 32, 33, 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 the payment of 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 ___ of the Post-9/11 Veterans Educational Assistance Act of 2008.

“(e) ALLOCATION OF ADMINISTRATION.—(1) IN GENERAL.—(A) Section 3303 of title 38, United States Code, is further amended by inserting after ‘‘§’’, ‘‘3301’’, ‘‘3302’’, and ‘‘3303’’, ‘‘3304’’, ‘‘3305’’, ‘‘3306’’, ‘‘3307’’, and ‘‘3308’’, respectively.

“(B) Section 4362(b)(3)(A) of title 10, United States Code, as added by section 4385(c) of the Post-9/11 GI Bill Act of 2008, is hereby amended by inserting ‘‘3304’’ after ‘‘3303’’.

“(C) As of the date of the individual’s election under that paragraph, the number of months of entitlement to basic educational assistance under chapter 33 of title 38, United States Code, as added, shall cease, and the requirements of such section shall be deemed to be no longer applicable to the individual.

“(f) BURIAL.—(1) IN GENERAL.—The Secretary of Veterans Affairs shall, if requested by the Executive, render such services as are necessary for the burial of a member of the Armed Forces who is entitled to educational assistance under chapter 33 of title 38, United States Code, by reason of an election under section 3011(c)(1) or 3012(d)(1) of such title; and

“(g) ASSESSMENT OF CLINICAL 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)(i) of paragraph (1) makes an election under such a program, a transfer of the entitlement of the individual to basic educational assistance under section 3020 of title 38, United States Code, to chapter 33 of title 38, United States Code, as so added, shall cease, and the requirements of such section shall be deemed to be no longer applicable to the individual.

“(h) BURIAL.—(1) IN GENERAL.—The Secretary of Veterans Affairs shall, if requested by the Executive, render such services as are necessary for the burial of a member of the Armed Forces who is entitled to educational assistance under chapter 33 of title 38, United States Code, by reason of an election under section 3011(c)(1) or 3012(d)(1) of such title; and

“(i) ASSESSMENT OF CLINICAL 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)(i) of paragraph (1) makes an election under such a program, a transfer of the entitlement of the individual to basic educational assistance under chapter 33 of title 38, United States Code, as added, shall cease, and the requirements of such section shall be deemed to be no longer applicable to the individual.

“§ 3303. Allocation of administration and cost

“(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, as of August 1, 2009, shall be apportioned, or otherwise made available to, the Department of Veterans Affairs for the payment of readjustment benefits.

“(c) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of title 38, United States Code, and at the beginning of part III of chapter 33 of such title, are each amended by inserting after the item relating to chapter 22 the following new item:


“(b) CONFORMING AMENDMENTS.—(1) AMENDMENTS RELATING TO DUPLICATION OF BENEFITS.—(A) Section 3303 of title 38, United States Code, is amended—

“(1) in subsection (a)(1), by inserting ‘‘33,’’ after ‘‘32,’’ and

“(2) 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 1616(b) 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:

“(1) In subsections (b) and (e)(1) of section 3406.

“(2) In subsection 3688(b).

“(3) In subsections (a)(1), (c)(1)(C), (d), and (e)(2) of section 3690.

“(4) In section 3690(b)(3)(A).

“(5) In subsections (a) and (b) of section 3692.

“(6) In section 3697(a).

“(B) Section 3697(a)(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.—Any individual who has received educational assistance under chapter 33 of title 38, United States Code (as so added), shall be eligible to elect participation in educational assistance under chapter 33 of title 38, United States Code, and shall be eligible to elect participation in educational assistance under chapter 33 of title 38, United States Code, and shall have the same rights and privileges as an individual entitled to basic educational assistance under chapter 33 of title 38, United States Code, as so added, in accordance with the provisions of this section.

“(c) AVAILABILITY OF UNREVOKED ENTITLEMENT.—Any entitlement described in subparagraph (A) that is not revoked by an individual in accordance with the provisions of this section 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.

“(d) 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) or (3) of this section shall be entitled to basic educational assistance under chapter 33 of title 38, United States Code, as so added, in accordance with the provisions of this section.

“(B) LIMITATION ON ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual making an election under paragraph (1) or (3) of this section (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 33 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).

“(c) CONTINUING ENTITLEMENT TO EDUCATIONAL ASSISTANCE NOT AVAILABLE UNDER § 3303.—(1) IN GENERAL.—In the event educational assistance to which an individual making an election under paragraph (1) would be entitled under chapter 33 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 chapter 30 of title 38, United States Code (as so added) 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 dollar per month for each month of entitlement under such chapter 33 for each month of entitlement utilized by the individual under subparagraph (A) who is described as if such entitlement were utilized under the provisions of chapter 30 of title 38, United States Code, or chapter 107, 1666, 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 additional 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 amended), shall be the amount described in subparagraph (A) who is described by paragraph (1)(A)(v), the number of months of entitlement to basic educational assistance remaining to the individual under paragraph (3)(A); and

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on August 1, 2008.

SEC. 4004. INCREASE IN AMOUNTS OF BASIC EDUCATIONAL ASSISTANCE UNDER THE POST-9/11 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 subparagraph (A) through (C) of section 3313(c) of such title (as so amended), shall be the amount described 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 under paragraph (3)(A); and

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on August 1, 2008.

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 (or 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 such subsection (a) shall provide that the State agency of the State will make payments of emergency unemployment compensation to individuals who—

(1) exhaust 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); and

(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 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 or 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 right 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; and

(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.—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 paragraph, such weekly benefit amount is an amount equal to 100 percent of the emergency unemployment compensation amount payable to each State that has entered into an agreement under this title an amount determined in accordance with paragraph (1)(A)(ii).

(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 date after the following:

(A) such a period is then in effect for such State under the Federal-State Extended Unemployment Compensation Act of 1970; or

(B) such a period would then be in effect for such State under such Act if section 203(d) of such Act would not have been included in such Act (as so established) 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 emergency unemployment compensation account, 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 for the 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 section.

(d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are appropriated from the Unemployment Trust Fund of the State, and only in the case of an individual who has applied for unemployment compensation under this title to which such individual is entitled, to the extent the State finds that 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, for the purposes of payment of any assistance or allowance with respect to any week of unemployment, during the 3-month period which it 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 have 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.


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) TRANSMISSION FOR AMOUNT REMAINING IN ACCOUNT.—

(1) In general.—Subject to paragraphs (2) and (3), in the case of an individual who has an agreement remaining in effect, established under section 5002 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 for which such individual was entitled, then section 5002(c) shall not apply and such account shall not be augmented under such section, regardless of whether such individual 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 MEDICAL SERVICES.

(1) EXTENSION OF CERTAIN MORATORIA IN PUBLIC LAW 110–23.—Section 7002(a)(1) of the
S4646  CONGRESSIONAL RECORD — SENATE  May 21, 2008

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, 2008”;

(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) by inserting after subparagraph (C), by inserting before the period at the end the following: “, including the proposed regulation published on August 23, 2007 (72 Federal Register 29793).”

(2) The following: “MEDICAID AND SCHIP EXTENSION ACT OF 2007 (Public Law 110-179)—Section 202 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-179) is amended—

(i) by striking “June 30, 2008” and inserting “April 1, 2008”;

(ii) by inserting “, including the proposed regulation published on August 13, 2007 (72 Federal Register 42931),” after “rehabilitation services”; and

(iii) by inserting “, including the final regulation published on December 28, 2007 (72 Federal Register 79835),” after “school-based transportation.”

(3) MORATORIUM ON INTERIM FINAL MEDICAID REGULATION RELATING TO OPTIONAL STATE PLAN 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 otherwise administrative action, policy, or practice, including a Medicaid 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.

(A) 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 otherwise administrative action, policy, or practice, including a Medicaid 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.

(B) PROPOSED REGULATION RELATING TO MEDI C AID ALLOWABLE PROVIDER TAXES.—

(i) IN GENERAL.—Subject to clause (ii), the provisions described in this subparagraph do not apply to the final regulation relating to health-care-related taxes under the Medicaid program published on February 22, 2008 (73 Federal Register 9342) in its entirety.

(ii) EXCEPTION.—The provisions described in this subparagraph do 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 specified in section 45K(b)(3)(i) of title 42, Code of Federal Regulations, for determining whether or not there is an indirect guarantee to hold a taxpayer harmless, required by 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 110-171).

(II) CHANGE IN DEFINITION OF MANAGED CARE.—The change in the definition of managed care as proposed in the revision of section 1939(b) of the Code of Federal Regulations, as required to carry out section 1903(w)(7)(A)(vii) of the Social Security Act, as amended by section 601 of the Deficit Reduction Act of 2005 (Public Law 109-171).

(III) DURATION.—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.

(2) RESTORATION OF ACCESS TO NOMINAL DRUG PRICING FOR CERTAIN CLINICS AND HEALTH CENTERS.—

(I) IN GENERAL.—Section 1927(c)(1)(D) of the Social Security Act (42 U.S.C. 1396b-c(1)(D)), as added by section 6001(d)(2) of the Deficit Reduction Act of 2005 (Public Law 109-171), is amended—

(A) by redesignating subclause (IV) as subclause (VI); and

(B) by inserting after subclause (VI) 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;

(bb) would be a covered entity described in section 308B(4)(a)(i) 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 that is providing primary or preventive 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 (42 U.S.C. 2001(a));

(B) by adding at the end the following new clause:

(IV) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to alter the rule of construction as provided in subclause (IV) or (V) of clause (i), including the prohibition set forth in section 1908 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.—

(I) 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.—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) Submission.—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 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 25 percent of enrollees, in the aggregate for all such other States, by the end of the fiscal year involved:

(1) 12.5 percent by the end of fiscal year 2009;

(2) 25 percent by the end of fiscal year 2010;

(3) 50 percent by the end of fiscal year 2011;

(4) 75 percent by the end of fiscal year 2012;

(5) 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, New Jersey, and New Mexico.

(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.

(E) EXEMPTION OF TERRITORIES.—This section shall only apply to the 50 States and the District of Columbia.

(B) ASSET VERIFICATION PROGRAM.—

(I) 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) any financial institution (within the meaning of section 1101(1) of such Act) any financial record (within the
meaning of section 1911(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 request or need in connection with a determination with respect to such eligibility for (or the amount or extent of) such medical assistance; and

"(B) access the authorization provided under subparagraph (A) to verify the financial sources of such applicant or recipient (and such other person, as applicable), in order to determine the eligibility for such medical assistance under the State plan.

"(2) PROGRAM DESCRIPTION.—A program described in section 1103(a) of such Act 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)(i).

"(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 paragraph (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 1105(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 1103(b) 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 an 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 pursuant to (or recipients for such other person, as applicable) under subsection (b)(1)(A) for the State to obtain from any other person, as applicable, 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, other than the Secretary or any instrumentality of the United States, for the performance of 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 technical assistance to the 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.

"(3) REQUIREMENTS FOR HOSPITALS TO QUALIFY FOR HOSPITAL EXCEPTION TO OWNERSHIP OR INVESTMENT PROHIBITION.—For purposes of subsection (d)(3)(D), the requirements described in this paragraph for a hospital are as follows:

"(A) PROVIDER AGREEMENT.—The hospital shall—

"(I) not own more than the greater of 40 percent of the aggregate value of the physician ownership interests in the hospital, as applicable, at the date of such submission (and approval), and failing 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 Secretary informs the State (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 REFINANCIALS FOR HOSPITALS.

"(a) IN GENERAL.—Section 1837 of the Social Security Act (42 U.S.C. 1395nn) is amended—

"(1) in subsection (d)(2)(A), by striking ""and"" at the end;

"(B) in paragraph (7) by striking the period at the end and inserting ""; and""; and

"(C) by inserting paragraph (7), as so amended, the following new paragraph:

"(7) provide that the State will implement an asset verification program as required under section 1102(a) of such Act (42 U.S.C. 1396a(a)) is amended—

"(A) paragraph (9) by striking ""and"" at the end;

"(B) in paragraph (7) by striking the period at the end and inserting ""; or""; and

"(C) by inserting paragraph (7), as so amended, the following new paragraph:

"(7) provide that the State will implement an asset verification program as required under section 1102(a) of such Act (42 U.S.C. 1396a(a)) is amended—

"(A) paragraph (9) by striking ""and"" 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:

"(23) is required to implement an asset verification program under section 1102(a) 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—

"(I) the State demonstrates to the Secretary’s satisfaction that the State made a good faith effort to comply;

"(II) the State, according to the Secretary, fulfills the terms of such corrective action plan.

"(3) REQUIREMENTS FOR HOSPITALS TO QUALIFY FOR HOSPITAL EXCEPTION TO OWNER-
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 on 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 for consultation 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.

'(G) 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.

'(H) LIMITATION ON REVIEW.—Not later than November 1, 2009, the Secretary shall promulgate regulations to carry out the process under clause (i).
(A) in subclause (III), by striking "$4,960,000,000" and inserting "$3,940,000,000"; and
(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 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 performed by an individual who is considered to be agricultural under section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(c)); 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 8011 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 12-month period ending on December 31, 2007—
(A) performed agricultural employment in the United States for at least 863 hours or 150 work days; 
(B) earned at least $7,000 from agricultural employment; 
(C) applied for 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; and
(D) 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
(2) has not been convicted of a felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or damage to property in excess of $500; or
(3) fails to pay any applicable Federal tax liability pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i));
(b) AUTHORIZED TRAVEL.—The Secretary shall provide an alien who is granted emergency agricultural worker status an employment authorized endorsement or appropriate work permit, 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 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; or
(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.
(e) WAIVER FOR EXTRAORDINARY CIRCUMSTANCES.—
(1) IN GENERAL.—An alien shall perform at least 18 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 work 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 illness; or
(ii) severe weather conditions that prevented the alien from engaging in agricultural employment; or
(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 due to a reasonablenes
(4) RECORD OF EMPLOYMENT.—
(A) REQUIREMENT.—Each employer of an alien granted emergency agricultural worker status shall annually provide—

(1) 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 pursuant to paragraph (A) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil 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.

(i) REQUIRED FEATURES OF IDENTITY CARDS.—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) the alien’s name (including a middle initial if used by the alien or the alien’s parents); (2) a photograph of the alien; (3) an encrypted, machine-readable electronic identification strip that is unique to the alien to whom the card is issued; and

(5) physical security features designed to prevent tampering, counterfeiting, or duplication for fraudulent purposes.

(2) FINE.—An alien granted emergency agricultural worker status shall pay a fine of $250 to the Secretary.

(B) 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.

(C) 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 in subsection (b) or (c), an alien granted emergency agricultural worker status (including a spouse or child granted derivative status) shall be considered to be an alien lawfully present for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and the Social Security Act (42 U.S.C. 1382). The derivative spouse and any minor child of an alien granted emergency agricultural worker status shall annually provide to the alien spouse and any minor child residing in the United States in the same manner as an alien lawfully admitted for permanent residence.

(b) EMPLOYMENT.—The derivative spouse and any minor child of an alien granted emergency agricultural worker status may travel outside the United States while such an alien lawfully admitted for permanent residence is present in the United States.

(c) VOTING RIGHTS.—An alien granted emergency agricultural worker status shall have the right to vote in any election for public office in the United States.

(d) LIMITATION ON ACCESS TO INFORMATION.—The Secretary shall not have access to such documentation of the alien’s employment or other information provided by an employer under this title, the information provided by an employer under this title, the information provided by a qualified designated entity for the purposes of this section, the information provided by an employer under this title, or any information provided by an employer that is not considered to be such documentation or such information provided by an employer for the purposes of this section are confidential and privileged and shall not be accessible to the Secretary; or

(e) LIMITATION ON ACCESS TO INFORMATION.—The Secretary shall not have access to such documentation of the alien’s employment or other information provided by an employer under this title, the information provided by an employer under this title, the information provided by a qualified designated entity for the purposes of this section, the information provided by an employer under this title, or any information provided by an employer that is not considered to be such documentation or such information provided by an employer for the purposes of this section are confidential and privileged and shall not be accessible to the Secretary; or

(f) CONFIDENTIALITY OF INFORMATION.—

(i) 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—

(ii) permitting a person other than a sworn official of the Department, a Bureau, or a court order issued pursuant to 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.—Each qualified designated entity shall agree—

(A) to forward to the Secretary an application submitted to that entity pursuant to subsection (b) if the applicant has consented to such forwarding; and

(B) 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.

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; or

(2) a qualified designated entity, if the Secretary shall not have access to such documentation or such information provided by an employer under this title, the information provided by an employer under this title, the information provided by a qualified designated entity for the purposes of this section, the information provided by an employer under this title; or

(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 other person designated by the Secretary in consultation with the Secretary.

(c) ALIEN LAWFUL PERMANENT RESIDENTS.—If an alien granted emergency agricultural worker status shall have the right to vote in any election for public office in the United States during the period of employment 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) LIMITATION ON ACCESS TO INFORMATION.—The Secretary shall not have access to such documentation of the alien’s employment or other information provided by an employer under this title, the information provided by an employer under this title, the information provided by a qualified designated entity for the purposes of this section, the information provided by an employer under this title, or any information provided by an employer that is not considered to be such documentation or such information provided by an employer for the purposes of this section are confidential and privileged and shall not be accessible to the Secretary; or

(e) LIMITATION ON ACCESS TO INFORMATION.—The Secretary shall not have access to such documentation of the alien’s employment or other information provided by an employer under this title, the information provided by an employer under this title, the information provided by a qualified designated entity for the purposes of this section, the information provided by an employer under this title, or any information provided by an employer that is not considered to be such documentation or such information provided by an employer for the purposes of this section are confidential and privileged and shall not be accessible to the Secretary; or

(f) CONFIDENTIALITY OF INFORMATION.—

(i) IN GENERAL.—Except as otherwise provided in this section, the Secretary or any other official or employee of the Department is prohibited from—

(ii) permitting a person other than a sworn official of the Department, a Bureau, or a court order issued pursuant to section 8011(a)(1) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(iii) permitting any publication in which the 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); and

(iv) permitting any publication in which the information furnished by any particular individual can be identified; or

(C) permitting a person other than a sworn official of the Department, a Bureau, or a court order issued pursuant to section 8011(a)(1) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

designated entity, that qualified designated entity, to examine individual applications.

(2) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished under this subsection to the individual or other entity 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 or not the death of such individual resulted from a crime.

(3) CONSTRUCTION.—

(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 Fund,” for the expenses incurred in making any other provision of law, there shall be deposited as offsets receipts into the account all fees collected under paragraph (1)(A).

(B) USE OF FUND.—The Secretary shall make available from the account established under this subsection 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.—A 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 to waive any provision of this subsection 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.

(4) TEMPORARY REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(A) 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 212(a)(1)(A) may not be waived from such section 212(a)(1)(A) if the alien demonstrates 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 authority to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

(B) DURING APPLICATION PERIOD.—An alien who presents a nonfrivolous application for emergency agricultural worker status during the application period described in section 212(a)(1)(A), 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 authority 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.

(2) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an administrative appellate review for a single level of administrative appellate review of such a determination.

(B) 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 ON 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 determination by the Secretary 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

(A) BEFORE APPLICATION PERIOD.—Beginning not later than the first day of the application period described in section 801(a)(2), the Secretary, in cooperation with the appropriate Federal department or agency that term is defined in section 801(b)(2), 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 have effect on the first day of the seventh month that begins after the date of the enactment of this Act.

(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 new subsection:

“(d) 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 801(a) for an alien that is inadmissible under section (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 allow the Commissioner, in accordance with such agreement, to use the data provided to the Secretary of Homeland Security by the Commissioner, as necessary to carry out the limitation on crediting quarters of coverage under subsection (d)."

(3) by adding at the end the following:

"(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENT.—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 being requested by the employer is requesting an H-2A worker not be 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 bargaining representative to the employer’s employees in the occupational classification at the place of employment for which aliens are needed.

(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 otherwise 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.

(G) EMPLOYMENT OF UNITED STATES 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 desires to employ an H-2A nonimmigrant is, or H-2A nonimmigrants are, sought.

(H) 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 desires to employ an H-2A nonimmigrant is, or H-2A nonimmigrants are, sought.

(I) 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 subsection shall require the employer to file an interstate job order under section 4902 of title 20, Code of Federal Regulations.

(J) 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 public notice that shall be published in a publicly available labor market that is likely to be patronized by potential farm workers.

(K) EMERGENCY PROCEDURES.—The Secretary of Labor shall provide a procedure for acceptance and approval of applications in which the employer has not..."
compiled 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 temporary or seasonal agricultural workers are sought and who will be available at the time and place of need.

(iii) PERIOD OF EMPLOYMENT.—The employer shall provide employment to any qualified United States worker who applies to the employer during the period beginning on the date the employer files the H-2A worker application for parts of 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 application is filed has elapsed, subject to the following requirements:

(1) 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.

(2) WITHDRAWAL OF APPLICATIONS.—If an employer submits a complaint by an employer that a violation of this clause has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall provide to the employer within 48 hours after 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 suspend the filing of the application 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 under this subsection, 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 offers 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 of or customary for that type of job involved so long as such criteria are not applied in a discriminatory manner.

(v) ASSIGNMENTS.—The Secretary of Labor shall, within 36 hours of the filing of the application, the certifications granted under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligation to employ the temporary or seasonal agricultural workers.

(2) LIMITATION.—An application may not be withdrawn while any alien provision status under section 1913(h)(1)(H)(ii)(a) pursuant to which such application is employed by the employer.

(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under another provision 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.

(vi) REVIEW AND APPROVAL OF APPLICATIONS.—

(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination any of its producer members named on the 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) that 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 met the requirements of this clause 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 Pursuant to paragraphs (1) or (2), an employer who has applied for the United States 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 paid by the employer directly to the appropriate individual or entity affiliated with the housing’s management.

(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, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment.

(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 to have found to be responsible for damage to such housing which is not the result of normal wear and tear related to the use, which the employer reasonably believes was caused by the employer for the reasonable cost of repair of such damage.

(b) 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.

(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 under this subpart.

(c) HOUSING ALLOWANCE.

(A) IN GENERAL.—An employer applying under section 218A(b) for H-2A workers shall provide to each worker in the job opportunities offered to such 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 camp standards or Federal temporary labor camp standards, State standards for rental or public accommodation housing or other substantially similar class of habitation, or the existence of applicable 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 RANG PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing for workers engaged in the range production of livestock.

(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide to workers who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

(F) LIMITATION.—If the employer fails to meet his or her obligations under this subparagraph, the employer may withdraw the application filed under that section and sections 218A, 218B, and 218C.
(iii) AMOUNT OF ALLOWANCE.—

(A) 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 determined 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.

(B) 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.—

(A) TO PLACE OF EMPLOYMENT.—A worker who completes the period of employment for which the employer has applied under 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.

(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.

(3) LIMITATION.

(A) I N GENERAL.—No reimbursement provided under subparagraph (A) or (B) shall be paid if the 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.

(B) TRANSPORTATION 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 the place of employment at the beginning of work and through an allowance as provided in paragraph (1)(G).

(D) EARLY TERMINATION.—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 the 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 an employment opportunity under paragraph (1) 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 per hour wage rate described 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 a 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 ½ guarantee described in paragraph (3)(A), (iv) the hours actually worked by the worker;

(iv) an itemization of the deductions made from the worker’s wages; and

(v) 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 such 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; and

(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.—There is established the Commission on Agricultural Wage Standards under the H-2A program (in this paragraph referred to as the ‘Commission’).

(i) COMPOSITION.—The Commission shall consist of 10 members as follows:

(1) Four representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

(2) Four representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

(iii) MEETINGS.—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 such 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; and

(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.

(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) GUARANTY 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 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 workdays 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 otherwise earned. In fact, worked for the guaranteed number of hours.

(B) FAILURE TO WORK.—Any hours which the worker fails to work shall be paid at 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 first day of employment, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

(ii) CONTRACT IMPOSSIBILITY.—If, after the expiration of the period of employment specified in the job offer, the servive of the workers 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 termination of the guaranteed employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment. In such cases, the employer shall provide to the worker, not later than 14 days prior to the termination of such employment, written notice of the termination of the guaranteed employment, the reason for the termination, and a copy of the job offer accepted by the worker.

(iii) EFFECT OF WORKERS’ COMPENSATION COVERAGE.—If the employer of any H-2A worker provides workers’ compensation coverage, the following adjustments in the requirements of subparagraph (Bi)(i) will apply:

(1) If no insurance policy or liability bond required under paragraph (A).

(D) MOTOR VEHICLE SAFETY.—

(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—(i) IN GENERAL.—Except as provided in clauses (ii) 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 ‘‘use’’ means any occasion for which a vehicle is moved or equipped to transport workers.

(iii) CLARIFICATION.—(A) The employer shall provide to the worker, not later than the day work commences, a copy of the employer’s application and job offer described in section 218(a), on or before the employer will require the worker to enter into a separation agreement or the employment in question, such separate employment contract.

(H) RENTS, PRODUCTION OF LIVESTOCK.—Nothing in the section, section 218, or section 218B shall preclude the Secretary of Labor and the Secretary of Agriculture from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

SEC. 21B. 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 of Labor accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petition.

(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subdivision (a) and within 7 working days shall, by fax, cable, or other means assure expeditious delivery, transmittal 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) when the petition has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

(c) CRITERIA FOR ADJUDICATION.—(i) 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).

(ii) DEQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(i)(a) if the alien, at any time since the 5 years—

(A) previously was admitted to the United States as an H-2A worker. An alien shall be considered admissible to the United States as an H-2A worker if at any time during the past 5 years—

(i)met all the requirements of the petition or

(ii) was not otherwise inadmissible under a different section of this title.

(iii) waiver of ineligibility for unlawful presence.—(i) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, who is otherwise eligible for admission in accordance with the provisions of paragraph (1) of this section, and who is not otherwise made ineligible by virtue of section 212(a)(9)(B) if an alien described in the section, including the requirement to promptly depart the United States when the alien’s authorized period of admission under the alien’s nonimmigrant status has expired.

(ii) waiver of ineligibility for unlawful presence under section 218(e)(2)(B) of the immigration and naturalization act.—(A) PERIOD OF ADMISSIBILITY.—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.

(C) 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.

(d) EXPEDITED ADJUDICATION.—(i) 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 for that reason the alien will be subject to removal under section 237(a)(1)(C)(i).

(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 continue to be employed in the United States if the petition described in paragraph (1) on the date on which the petition is filed.

(B) DEFENSE.—For purposes of subparagraph (A), the term ‘file’ means sending the petition by certified mail via the United States Postal Service, return receipt required, accompanied by a self-addressed, 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 to verify eligibility for employment in the United States and verify the alien’s identity.

(4) LIMITATION ON AN INDIVIDUAL’S STAY IN STAGES.

(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.

(1) 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 any alien classification with respect to the alien’s period of absence from the United States; and

(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien who—

(A) was lawfully outside the United States for a continuous period equal to at least ½ the duration of the alien’s previous authorized status as an H-2A worker (including any extensions); or

(B) was outside the United States for a continuous period equal to at least ½ the duration of the alien’s previous authorized status as an H-2A worker (including any extensions) and the alien has not been convicted of a criminal offense.

(5) LIMITATION ON AN INDIVIDUAL’S STAY IN STAGES.

(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.

(1) 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 any alien classification with respect to the alien’s period of absence from the United States; and

(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien who—

(A) was lawfully outside the United States for a continuous period equal to at least ½ the duration of the alien’s previous authorized status as an H-2A worker (including any extensions); or

(B) was outside the United States for a continuous period equal to at least ½ the duration of the alien’s previous authorized status as an H-2A worker (including any extensions) and the alien has not been convicted of a criminal offense.

(6) 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 petitioning (a), subsection (j) shall not apply, an extension of the alien’s stay and a change in the alien’s employment.
(C) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for hearing, that the employer has failed to pay wages, or provide the housing allowance, transportation, subsistence reimbursement, or relocation assistance, required under section 218(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or former seasonal agricultural worker, or, in the absence of a complaint under this section, a violation 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).

(ii) 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

(iii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(A) for a period not to exceed 90 days.

(D) WILFUL FAILURES AND WILFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(a), a wilful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1), 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:

(i) the Secretary of Labor may seek an order of the court awarding the worker the full amount of wages due and such additional amount as the court finds to be appropriate as liquidated damages.

(ii) the Secretary of Labor may seek an order of the court awarding the worker payment of all expenses reasonably incurred in connection with the proceeding (including reasonable attorney fees and costs).
(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 bodily 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 that 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.

(4) 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 the terms and conditions of sections 218 and 218A, as though the employer had filed the application itself. If such an employer is determined (after having been found liable and assessed charges for such violation) 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 an association member or members participated in or had knowledge, or reason to know, of the violation, in which case the penalty shall be divided among the association member or members 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 divided among the association member or members as well.

SEC. 218D. Definitions.

For purposes of this section and section 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(9) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(r)) or agricultural labor under section 312(g) of the Internal Revenue Code of 1986 or the performance of services described in section 10(a)(10)(B)(H)(iii)(a).

(2) BONA FIDE UNION.—The term ‘‘bona fide union’’ means any organization in which employees, 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 otherwise controlled by an employer, or an employee 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, 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, entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.


(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 a worker is referred.

(9) LAYING OFF.—

(A) In general.—The term ‘‘laying off’’, with respect to a worker—

(1) means 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 alteration of a job opportunity, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218A(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, referred to whether or not the employee accepts the offer.

(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employer’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 workers through an irrigation program, or which 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 of the year; or

(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 1 year.

(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)(i)(A).

(a) Table of Contents.—The table of contents for 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.’’.

(b) Table of Contents.—The table of contents for 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 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. 8021. PRECLUSION 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 compensation 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 under section 214 of the Immigration and Nationality Act, as amended 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 fees under this section, 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 materials or documents 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 deposited in the Federal Treasury without offset 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 of State 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 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 of the Secretary of State, the Secretary of Labor, and the Secretary of Labor created under sections 218, 218A, 218B, 218C, and 218D of the Immigration and Nationality Act, as amended and added, respectively, by section 8021, 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 214(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 Office of Engagement; and
(2) the number of such aliens reported to have abandoned employment pursuant to subsection 218B(e)(2) of such Act.

(b) TELEWORK.—With respect to any 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 801(a) and

(5) the number of such aliens whose status was adjusted under section 801.

(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 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.
(a) IN GENERAL.—In this Act:
(1) EMPLOYEE.—The term "employee" has the meaning given that term by section 2165 of title 5, United States Code.
(2) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given that term by section 180 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 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 employee and an agency manager and that 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; and
(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 of the agency in the event of an emergency.

SEC. 9004. TRAINING AND MONITORING.
(a) IN GENERAL.—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) AGENCY 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 policies.

(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.—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.

(b) TELEWORK COORDINATORS.—
(1) GENERAL.—Each executive agency shall designate a Telework Coordinator to be its point of contact for the purposes of this Act.
(2) TELEWORK MANAGING OFFICER.—Each Telework Managing Officer shall designate a Telework Coordinator to be its point of contact for the purposes of this Act.

(c) TELEWORK WEBSITE.—The Telework Managing Officer shall—
(1) be devoted to policy development and implementation related to agency telework programs;
(2) serve as—
(A) an advisor to 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—
(a) 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
(b) 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 ensure compliance, and the results of employee telework participation during the preceding 12-month period provided by each executive agency;
(2) a 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 extent to which barriers to maximize telework opportunities have been identified and eliminated; and
(5) the 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 the period that the employee is performing officially assigned duties.

(b) AGENCY MANAGER REPORTS.—Not later than 180 days after the establishment of a telework policy or any modifications to such policy, the Office of Management and Budget determines that 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 not in compliance; and
(2) describes progress of noncompliant executive agencies, justifications of any continuance of noncompliance, and 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 “12 years”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2008.

TITIE X
GENERAL PROVISONS—THIS ACT

AVAILABILITY OF FUNDS

SEC. 10002. Each amount in each title of this Act shall be available for obligation during the fiscal year in which it is appropriated, or 2008, as amended by subsection (c)(1).

EMERGENCY DESIGNATION

SEC. 10003. None of the funds in this Act may be used for an emergency requirement without respect to the presidential budget for fiscal year 2008.

AVOIDANCE OF U.S. PAYROLL TAX CONTRIBUTIONS

SEC. 10004. Section 610(b) of the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note) is amended by striking “15 years” and inserting “25 years”.

INTERIM RELIEF FOR SKILLED IMMIGRANT WORKERS

SEC. 10005. (a) RECAPTURE OF UNSED EMPLOYMENT-BASED VISA NUMBERS.—Subsection (c) of section 106 of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106-362; 8 U.S.C. 1153 note) is amended—
(1) in paragraph (1)—
(B) by striking “or 2004” and inserting “2006, or 2007’’;
(C) by striking “shall be available” and all that follows through the end and inserting “shall be available only to—
(1) the 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 106(c) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106-362; 8 U.S.C. 1153 note); and
(2) in paragraph (2)—
(A) by striking “years 1994 through 2006’’ and inserting “year 2004 and each subsequent fiscal year’’; and
(B) in subsection (d), by striking ‘‘(1)’’ and by striking ‘‘(ii)’’ and (iii) by striking clause (ii); and
(3) by adding at the end the following new paragraph:
(4) EMPLOYMENT-BASED VISA RECUPITURE 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 PER CONCIL.
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 (section 126(m) of the Immigration and Nationality Act (8 U.S.C. 1153)).
(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:
(2) ADJUSTMENT OF STATUS FOR EMPLOYMENT-BASED IMMIGRANTS.
(1) ELIGIBILITY.—The Secretary of Homeland Security shall promulgate regulations for an adjustment application by an alien (and any eligible dependent of such alien) who has an approved or pending petition under subparagraph (B) or (F) of section 204(a)(1), regardless of whether an immigrant visa is immediately available at the time the application is filed.
(3) VISA AVAILABILITY.—An application filed pursuant to paragraph (1) shall not be approved until an immigrant visa becomes available.
(4) 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 implementa-
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 the 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 Secretary shall 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 interdisciplinary 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, 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 opportunities 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.

(17) LIMITS ON 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 enactment of this section, an interim report on such results; and

(2) not later than September 30, 2010, a final report on such results.

(18) RECEIPTS.

(1) SEC. 831. 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.’

(b) 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.

(c) APPLICATIONS.

(1) In general.—(A) 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.

(B) Amounts collected pursuant to paragraph (1) shall—

(i) permit an eligible alien (as defined in section 106(f) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–554)) to receive financial assistance to defray the costs of education or training to qualify as a candidate country; and

(ii) provide for the issuance of documents (E) of section 212(a)(5) 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 pursuant to subsection (a) of such section 317A for not less than a 12-month period and not more than 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 health care worker.

(2) Consultation.—The Secretary of Homeland Security shall consult with the Secretary of State in carrying out this section.

(2) RECRUITMENT REQUIREMENT.

(1) 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 who takes care of 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.

(2) 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 candidate country 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.

(3) 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’s employment 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 satisfied; or

(iii) 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 improver means; or

(4) Authorization of Appropriations.—There are authorized to be appropriated to the Domestic Nursing Enhancement Account such sums as may be necessary to carry out this subsection and the amendments made by this subsection.
(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 affect all areas. 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 55% of 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) The increase in the number of registered nurses and the need for ancillary 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 pipeline to the nursing workforce (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 faculty and clinical opportunities through collaborative programs among staff nurse organizations, healthcare providers, and accredited schools of nursing;

(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 front-line 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 want 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 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. 186c(e));

(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;

(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 is jointly operated by public and nonprofit, organizations that include equal participation from industry, including public or private employers, and labor organizations including joint labor-management training programs which may include representatives from local governments, worker investment agencies, one-stop career centers, community based organizations, community colleges, and accredited schools of nursing; and

(d) 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;

(3) supports grants 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 enable nurses 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 under the grant, by contributions which 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 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 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, 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 academic program of education and training 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:

(B) Preparing incumbent workers to return to the classroom through English as a second language or other educational training.

(C) Implementing or overseeing job training 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:

(1) To-cooperative education 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:

(2) 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.

(3) Providing stipends for release time and continued health 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:

(4) Increasing the pool of nurses with advanced degrees who are interested in teaching by funding programs that enable incumbent nurses to return to school.

(5) 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.

(6) Collaboration with accredited schools of nursing which may include community colleges and other academic institutions providing associate, bachelors’, 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.

(6) assess the outcomes of the programs and the impact of the outcomes on patient care and quality of care.
(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.

(3) Authorization of Appropriations.—There are authorized to be appropriated to the Department of Labor, the Secretary of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2009, and to remain available until September 30, 2010:

**LEGAL ACTIVITIES**

For an additional amount for “Salaries and Expenses, General Legal Activities”, $1,648,000, to remain available until September 30, 2009.

**FEDERAL BUREAU OF INVESTIGATION**

For an additional amount for “Salaries and Expenses”, $164,965,000, to remain available until September 30, 2009.

**DEPARTMENT OF JUSTICE**

**FEDERAL BUREAU OF INVESTIGATION**

For an additional amount for “Salaries and Expenses”, $361,900,000, 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**

For an additional amount for “Salaries and Expenses”, $18,621,000, to remain available until September 30, 2009:

**FEDERAL BUREAU OF INVESTIGATION**

For an additional amount for “Salaries and Expenses”, $164,965,000, to remain available until September 30, 2009.

**DEPARTMENT OF JUSTICE**

**FEDERAL BUREAU OF INVESTIGATION**

For an additional amount for “Salaries and Expenses”, $14,500,000, to remain available until September 30, 2009.

**DEPARTMENT OF JUSTICE**

**FEDERAL BUREAU OF INVESTIGATION**

For an additional amount for “Salaries and Expenses”, $23,000,000, to remain available until September 30, 2009.

**DEPARTMENT OF JUSTICE**

**FEDERAL BUREAU OF INVESTIGATION**

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**

For an additional amount for “Salaries and Expenses”, $4,000,000, to remain available until September 30, 2009.

**FEDERAL PRISON SYSTEM**

For an additional amount for “Salaries and Expenses”, $4,000,000, to remain available until September 30, 2009.

**FEDERAL PRISON SYSTEM**

For an additional amount for “Salaries and Expenses”, $9,100,000, to remain available until September 30, 2009.

**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:

**MILITARY CONSTRUCTION, NAVY AND MARINE CORPS**

For an additional amount for “Military Construction, Navy and Marine Corps”, $300,000,000, to remain available until September 30, 2009, and 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 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.
$70,600,000, to remain available until Septem-
ber 30, 2012, for the acceleration and com-
pletion of child development center con-
struction 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.
S. 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 center con-
struction 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.
S. 1303. In addition to amounts otherwise
appropriated or made available under the
heading “Military Construction, Air Force”,
there is hereby appropriated an additional
$81,100,000, to remain available until Septem-
ber 30, 2012, for the acceleration and com-
pletion of child development center con-
struction 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.
S. 1304. In addition to amounts otherwise
appropriated or made available under the
heading “Military Construction, Air Force”,
there is hereby appropriated an additional
$200,000,000, to remain available until Septem-
ber 30, 2012, to accelerate barracks im-
provements at Department of the Army in-
stallations: Provided, That such funds may be
obligated and expended to carry out planning
and design and military construction not
otherwise authorized by law: Provided fur-
ther, 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.
S. 1305. COLLECTION OF CERTAIN INDEBTED-
NESS OF MEMBERS OF THE ARMED FORCES
AND VETERANS WHO DIE OF INJURY INCURRED OR
AGGRAVATED IN SERVICE IN THE LINE OF DUTY
DURING 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 ag-
gravated in the line of duty in a combat zone.
"(a) LIMITATION ON AUTHORITY.—The Sec-
retary may not collect any all or any part of
an amount owed to the United States by a
member of the Armed Forces or veteran de-
scribed in subsection (c), under any provision
under the laws administered by the Sec-
retary, 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 operations (as defined in section
1712A(a)(2)(B) of this title) after September
"(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) CHERKAL AMENDMENT.—The table of
sections at the beginning of chapter 53 of
this 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 ag-
gravated in the line of duty in a combat zone."
(b) EQUIVALENT REFUND.—In any case where
all or any part of an indebtedness of a cov-
ered 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 Sec-
retary of Veterans Affairs determines that
such indebtedness would have been termi-
nated 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 subsection shall take effect on the
date of the enactment of this Act, and shall
apply with respect to collections of indebt-
edness 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 Elimina-
tion 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 re-
main available until September 30, 2009, of which $212,400,000 for worldwide security pro-
tection 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 appro-
priated under this heading, not more than
$30,000,000 shall be made available to estab-
lish and implement a coordinated civilian re-
spose capacity at the United States De-
partment 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 Peo-
ple’s Republic of China until September 30,
2009: Provided further, That the funds appro-
priated under this heading, to remain avail-
able until September 30, 2009: Provided,
That $2,500,000 shall be transferred to the
Special Inspector General for Iraq Recon-
struction 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 Septem-
ber 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 Afghanistan.
EMBASSY SECURITY, CONSTRUCTION, AND
MAINTENANCE
For an additional amount for "Embassy Security, Construction, and Maintenance", $73,000,000, to remain available until Sep-
tember 30, 2009, of which $10,000,000 shall be
for security improvements at the United States Embassy in Jeddah, Saudi Arabia.
INTERNATIONAL ORGANIZATIONS
CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS
For an additional amount for "Contribu-
tions to International Organizations", $66,000,000, to remain available until Septem-
CONTRIBUTIONS FOR INTERNATIONAL
PEACEKEEPING ACTIVITIES
For an additional amount for "Contribu-
tions for International Peacekeeping Activi-
ties", $383,600,000, to remain available until Septem-
ber 30, 2009, of which $333,600,000 shall be
made available to the United Nations-Af-
Diplomatic and Consular Programs
Foreign Affairs
American University Hybrid Mission in Darfur.
RELATIONED AGENCY
BROADCASTING BOARD OF GOVERNORS
INTERNATIONAL BROADCASTING OPERATIONS
For an additional amount for "Inter-
national Broadcasting Operations", $73,000,000, to remain available until Sep-
tember 30, 2009.
BILATERAL ECONOMIC ASSISTANCE
Funds Appropriated to the President
INTERNATIONAL DISASTER ASSISTANCE
For an additional amount for "Inter-
national Disaster Assistance", $240,000,000, to remain available until September 30,
2009: Provided, That of the funds appropri-
pated under this heading, not more than $25,000,000 shall be made available to establish and im-
DIPLOMATIC AND CONSULAR PROGRAMS
INTERNATIONAL ORGANIZATIONS
CONTRIBUTIONS TO INTERNATIONAL
ECONOMIC SUPPORT FUND
For an additional amount for "Economic Support Fund", $1,962,500,000, to remain available until September 30,
2009: Provided, That 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 further, 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 the funds made avail-
able under this heading for energy-related assistance for North Korea may be made available
until September 30, 2009: Provided, That $2,500,000 shall be transferred to the Special Inspector General for Iraq Recon-
struction for reconstruction oversight.
EDUCATIONAL AND CULTURAL EXCHANGE
PROGRAMS
For an additional amount for "Educational and Cultural Exchange Programs",...

$5,000,000 shall be transferred to the Special Inspector General for Iraq Recon-
struction for reconstruction oversight, and
up to $5,000,000 may be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight.
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 ASSISTANCE**

For an additional amount for “Democratic Fund”, $76,000,000, to remain available until September 30, 2009, of which not more than $25,000,000 shall be made available for democracy programs in Iraq and 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 democracy programs in Chad.

**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”, $56,600,000, 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**

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**

For an additional amount for “Diplomatic and Consular Programs”, $562,500,000, which shall become available on October 1, 2008 and remain available through September 30, 2009: Provided, That the funds appropriated under this heading, $78,600,000 is for worldwide security protection and shall remain available until expended: Provided further, That not more than $500,000,000 shall 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 for countries facing significant food shortages.

**INTERNATIONAL DISASTER ASSISTANCE**

For an additional amount for “International Disaster Assistance”, $290,000,000, 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 “Operations Expenses of the United States Agency for International Development”, $355,000,000, 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 RELIEF, REHABILITATION, AND 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 $100,000,000 may be made available for assistance for Iraq, $50,000,000, which 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 North Korea, 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”, $330,500,000, 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**

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.

**POLITICAL-MILITARY PROGRAMS—AFGHANISTAN**

For an additional amount for “Political-Military Programs—Afghanistan”, $141,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

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**

For an additional amount for “Peacekeeping Operations”, $10,000,000, to remain available until September 30, 2009.

**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 of the funds appropriated under this heading, $78,600,000 is for worldwide security protection and shall remain available until expended: Provided further, That not more than $500,000,000 shall be made available for local or regional purchase and distribution of food: Provided further, That the Secretary of State may be obligated and expended notwithstanding any other provision of law.
(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 the operation or program of the Central Intelligence Agency and the National Geospatial-Intelligence Agency shall be made available for programs related to the anticorruption strategy in Iraq.

(c) DELIVERY OF ASSISTANCE.—None of the funds appropriated by this chapter for the program of work under the heading ‘‘Iraq Relief and Reconstruction Fund’’ in the International Assistance Division of the Department of State shall be made available for programs related to civil society until the Secretary of State certifies and reports to the Committees on Appropriations that the recipient is cooperating with the United States to combat corruption in the recipient’s government and that the recipient is making significant progress toward the goals of the anticorruption strategy.

(d) C O M M U N I T Y S T A B I L I Z A T I O N P R O G R A M.—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 has begun work on a comprehensive anti-corruption strategy for the recipient and that the strategy is being implemented.

(e) A N T I - C O R R U P T I O N — F U N D S .—None of the funds appropriated by this chapter for the program of work under the heading ‘‘Iraq Relief and Reconstruction Fund’’ in the International Assistance Division of the Department of State shall be made available for programs related to civil society until the Secretary of State certifies and reports to the Committees on Appropriations that the Government of the recipient is cooperating with the United States to combat corruption in the recipient’s government and that the recipient is making significant progress toward the goals of the anticorruption strategy.

(f) T E R R O R I S M.—None of the funds appropriated by this chapter for the program of work under the heading ‘‘Iraq Relief and Reconstruction Fund’’ in the International Assistance Division of the Department of State shall be made available for programs related to civil society until the Secretary of State certifies and reports to the Committees on Appropriations that the recipient has credible evidence to believe that the recipient is not funding, assisting, or otherwise supporting terrorist activities.

(g) E L I M I N A T I O N O F V I O L E N C E — F U N D S .—None of the funds appropriated by this chapter for the program of work under the heading ‘‘Iraq Relief and Reconstruction Fund’’ in the International Assistance Division of the Department of State shall be made available for programs related to civil society until the Secretary of State certifies and reports to the Committees on Appropriations that the recipient is cooperating with the United States to combat corruption in the recipient’s government and that the recipient is making significant progress toward the goals of the anticorruption strategy.

(h) C O M M U N I T Y S T A B I L I Z A T I O N P R O G R A M.—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 has begun work on a comprehensive anti-corruption strategy for the recipient and that the strategy is being implemented.

(i) ANTI-CORRUPTION.—None of the funds appropriated by this chapter for the program of work under the heading ‘‘Iraq Relief and Reconstruction Fund’’ in the International Assistance Division of the Department of State shall be made available for programs related to civil society until the Secretary of State certifies and reports to the Committees on Appropriations that the recipient is cooperating with the United States to combat corruption in the recipient’s government and that the recipient is making significant progress toward the goals of the anticorruption strategy.

(j) T E R R O R I S M.—None of the funds appropriated by this chapter for the program of work under the heading ‘‘Iraq Relief and Reconstruction Fund’’ in the International Assistance Division of the Department of State shall be made available for programs related to civil society until the Secretary of State certifies and reports to the Committees on Appropriations that the recipient has credible evidence to believe that the recipient is not funding, assisting, or otherwise supporting terrorist activities.

(k) E L I M I N A T I O N O F V I O L E N C E — F U N D S .—None of the funds appropriated by this chapter for the program of work under the heading ‘‘Iraq Relief and Reconstruction Fund’’ in the International Assistance Division of the Department of State shall be made available for programs related to civil society until the Secretary of State certifies and reports to the Committees on Appropriations that the recipient is cooperating with the United States to combat corruption in the recipient’s government and that the recipient is making significant progress toward the goals of the anticorruption strategy.

(l) C O M M U N I T Y S T A B I L I Z A T I O N P R O G R A M.—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 has begun work on a comprehensive anti-corruption strategy for the recipient and that the strategy is being implemented.

(m) ANTI-CORRUPTION.—None of the funds appropriated by this chapter for the program of work under the heading ‘‘Iraq Relief and Reconstruction Fund’’ in the International Assistance Division of the Department of State shall be made available for programs related to civil society until the Secretary of State certifies and reports to the Committees on Appropriations that the recipient is cooperating with the United States to combat corruption in the recipient’s government and that the recipient is making significant progress toward the goals of the anticorruption strategy.

(n) T E R R O R I S M.—None of the funds appropriated by this chapter for the program of work under the heading ‘‘Iraq Relief and Reconstruction Fund’’ in the International Assistance Division of the Department of State shall be made available for programs related to civil society until the Secretary of State certifies and reports to the Committees on Appropriations that the recipient has credible evidence to believe that the recipient is not funding, assisting, or otherwise supporting terrorist activities.

(o) E L I M I N A T I O N O F V I O L E N C E — F U N D S .—None of the funds appropriated by this chapter for the program of work under the heading ‘‘Iraq Relief and Reconstruction Fund’’ in the International Assistance Division of the Department of State shall be made available for programs related to civil society until the Secretary of State certifies and reports to the Committees on Appropriations that the recipient is cooperating with the United States to combat corruption in the recipient’s government and that the recipient is making significant progress toward the goals of the anticorruption strategy.

(p) C O M M U N I T Y S T A B I L I Z A T I O N P R O G R A M.—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 has begun work on a comprehensive anti-corruption strategy for the recipient and that the strategy is being implemented.

(q) ANTI-CORRUPTION.—None of the funds appropriated by this chapter for the program of work under the heading ‘‘Iraq Relief and Reconstruction Fund’’ in the International Assistance Division of the Department of State shall be made available for programs related to civil society until the Secretary of State certifies and reports to the Committees on Appropriations that the recipient is cooperating with the United States to combat corruption in the recipient’s government and that the recipient is making significant progress toward the goals of the anticorruption strategy.

(r) T E R R O R I S M.—None of the funds appropriated by this chapter for the program of work under the heading ‘‘Iraq Relief and Reconstruction Fund’’ in the International Assistance Division of the Department of State shall be made available for programs related to civil society until the Secretary of State certifies and reports to the Committees on Appropriations that the recipient has credible evidence to believe that the recipient is not funding, assisting, or otherwise supporting terrorist activities.

(s) E L I M I N A T I O N O F V I O L E N C E — F U N D S .—None of the funds appropriated by this chapter for the program of work under the heading ‘‘Iraq Relief and Reconstruction Fund’’ in the International Assistance Division of the Department of State shall be made available for programs related to civil society until the Secretary of State certifies and reports to the Committees on Appropriations that the recipient is cooperating with the United States to combat corruption in the recipient’s government and that the recipient is making significant progress toward the goals of the anticorruption strategy.
(A) lists all waivers issued under subsection (a) during the preceding year; and
(B) describes in detail the progress that is being made in the implementation of the commitments that are contained in the Joint Statement of September 19, 2005, to abandon all nuclear weapons and existing nuclear programs as part of the verifiable denunciation by North Korea of the Korean Peninsula.
(C) discusses specifically any shortcomings in the implementation by North Korea of that commitment; and
(D) 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.

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 $300,000,000 shall 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 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 and seizing firearms and investigating firearms trafficking cases.
(b) ALLOCATION OF FUNDS.—Twenty-five percent 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 shall 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 and seizing firearms and investigating firearms trafficking cases.
(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 shall 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 and seizing firearms and investigating firearms trafficking cases.

SEC. 1406. (a) ASSISTANCE FOR THE COUNTRIES OF CENTRAL AMERICA.—Of the funds appropriated in subchapter A for assistance for the countries of Central America, 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 made available 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 forces who have been credibly alleged to have committed human rights violations.
(b) ALLOCATION OF FUNDS.—Twenty-five percent of the 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 shall be subject to the regular notification procedures of the Committees on Appropriations and section 639A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1).
(c) SPENDING PLAN.—Not later than 45 days after the date of 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 assistance for Mexico in subchapter A, which shall include a strategy for combating drug trafficking and related violence and organized crime, judicial reform, anti-corruption, and rule of law activities: Provided, That of the funds made available for assistance for Mexico in subchapter A for which the response or action taken has been inadequate.
(d) NOTIFICATION.—Funds made available for Mexico in subchapter A shall be subject to the regular notification procedures of the Committees on Appropriations and section 639A 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 assistance 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 90 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 obligated for the countries of Central America, Haiti, and the Dominican Republic only to combat drug trafficking and related violence and organized crime, judicial reform, anti-corruption, and rule of law activities: Provided, That of the funds made available under this 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 none of the funds 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 for assistance for the Dominican Republic contribution to the Inter-American Commission on Human Rights and human rights violations or corrupt acts.
(b) ALLOCATION OF FUNDS.—Not later than 90 days after the date of enactment of this Act and every 90 days thereafter until September 30, 2010, the Secretary of State shall consult with Mexican and internationally recognized human rights organizations, and human rights organizations in the countries of Central America, Haiti and the Dominican Republic for assistance pursuant to this section have not been involved in human rights violations or corrupt acts.
(c) 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.
(d) NOTIFICATION.—Funds made available 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 639A 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 assistance 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 90 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 for assistance pursuant to this section have not been involved in human rights violations or corrupt acts.
(g) DEFINITION.—For the purposes of purposes of section, the term ‘‘countries of Central America’’ means the countries of Panama, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and
SEC. 1407. (a) ADMINISTRATIVE EXPENSES.—Of the funds appropriated or otherwise made available under the heading “Economic Support Fund” 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 the United States Embassy in Mexico City to vet members and units of the Mexican armed forces that receive assistance made available by this Act and to monitor the use of such assistance.

(c) 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 652(a) of the Foreign Assistance Act of 1961 and the unamendable provision of law, shall include the provision of sufficient funds to fully reimburse the United States Agency for International Development for 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 made available under the heading “Economic Support Fund” of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110-161).

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 Fund 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 the funds made available by this chapter up to an additional $74,000,000 may be transferred to and made available under the heading “Buying Power Maintenance Account”, subject to the regular notification procedures of the Committees on Appropriations and in accordance with the procedures in section 1406 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 4 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706). (b) Section 24(b)(7) of the State Department, Foreign Operations, and Related Programs Appropriations Act, 2006 (22 U.S.C. 268b(b)(7)) is amended by adding the 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.”.

SERRA

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, beginning 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.

SEC. 1410. (a) WORLD FOOD PROGRAM.— (1) For an additional amount for a contribution to the World Food Program to assist farmers affected by food shortages to increase crop yields, notwithstanding any other provision of law, $20,000,000, to remain available until expended.

(b) Of the funds appropriated under the heading “Anade Counterdrag 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 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.

(c) 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.

(d) 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.

DAKAR 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 allocate 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. 2316, 2317(i)) or section 61 of the Arms Export Control Act (22 U.S.C. 2780) in order to effect such transfer or lease, notwithstanding any other provision of law except for sections 520(a)(2), 620A and 620J of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2), 2317, 2376d) and section 40A of the Arms Export Control Act (22 U.S.C. 2780). Any exercise of the authority of section 506 or 516 of the Foreign Assistance Act by the President pursuant to this section may include the authority to acquire helicopters by contract.

FOOD SECURITY AND CYCLONE NARGIS RELIEF (INCLUDING RESCissions 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 assess 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; and 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 forensic 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 RESScission of Funds)

SEC. 1414. (a) For an additional amount for “Economic Support Fund” for assistance for...
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, $300,000,000 are rescinded.

SEC. 1414. Appropriations:

(a) Funds provided by this chapter for appropriations not otherwise made available for programs and countries in the amounts contained in such tables included in the explanatory statement accompanying the Act shall not apply to this section.

(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.

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.

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 detailed spending plan and anticipated expenditure 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.

SEC. 1418. Unless otherwise provided for in this Act, any unobligated, 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).
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 2010 (Public Law 109–108) 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”, $50,000,000, to remain available until expended.

URANIUM ENRICHMENT DECOMMISSIONING AND DECOMMISSIONING FUND

For an additional amount for “Uranium Enrichment Decontamination and Decommissioning Fund”, $32,000,000, to remain available until expended.

SCHNU.

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 SECTION

Sec. 2301. (a) Except as provided in subsection (b), the Secretary of Energy shall continue the cooperative agreement numbered DE–FC–26–06VT2703, 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 provide updated information and documentation to the Department of Energy.

Sec. 2302. INCENTIVES FOR ADDITIONAL DOWNBLENDING OF HIGHLY ENRICHED URANIUM BY THE RUSSIAN FEDERATION.

The Energy Information Administration is authorized, from funds appropriated under this Act, to include low-enriched uranium derived from highly enriched uranium of weapons origin, may not exceed 400,000 kilograms, and may be imported in the current calendar year, if the Secretary of Energy shall increase or decrease the amount of low-enriched uranium that may be imported for each kilogram of highly enriched uranium downblended under paragraph (2)(B) by a percentage equal to the percentage increase or decrease, as the case may be, in the average amount of uranium necessary to equal the national security of the United States.

(b) Section 3009(a) of the Deficit Reduction Act of 2010 (Public Law 109–108) 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”.

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DEPARTMENT OF ENERGY
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ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES
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The Energy Information Administration is authorized, from funds appropriated under this Act, to include low-enriched uranium derived from highly enriched uranium of weapons origin, may not exceed 400,000 kilograms, and may be imported in the current calendar year, if the Secretary of Energy shall increase or decrease the amount of low-enriched uranium that may be imported for each kilogram of highly enriched uranium downblended under paragraph (2)(B) by a percentage equal to the percentage increase or decrease, as the case may be, in the average amount of uranium necessary to equal the national security of the United States.
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 earlier of—

“(A) December 31, 2020; or

“(B) the date on which the Secretary of Energy makes a determination 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 HURDLE 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 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 content of the highly enriched uranium downblended for purposes of paragraphs (2)(B), (7), and (8)(B).

“(B) METHODS OF VERIFICATION.—In conducting a verification required under subparagraph (A), the Secretary of Energy shall employ the transferability measures provided for in the Russian HEU Agreement for monitoring the use of 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.—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 provisions 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 by 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 “Veteran’s Business and Entrepreneurship” account of the Small Business Administration, for grants in the amount of $100,000 to veterans business resource centers that received a grant under the Veteran’s Business Development Corporation in fiscal years 2006 and 2007.


“(b) CONSTRUCTION.—For purposes of construing and applying chapter 87 of title 5, United States Code, including the adjustment of insurance rates by regulation or otherwise, the following categories of judicial officers shall be deemed to be judges of the United States for the purposes of section 8701 of title 5, United States Code:

“(1) Bankruptcy judges appointed under chapter 6 of title 28, United States Code.


“(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.簡化法庭法官年領65或以上。(a) 註明一般.—第7472條的內部稅務章程於1986年是通過插入以下的字句和接下的以下的字句：‘‘已於2004年4月24日，已顯示了‘’：

“(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. SAFE RURAL SCHOOLS ACT AMENDMENTS. (a) In general.—For fiscal year 2008, payments shall be made from any revenues, fees, penalties, or miscellaneous receipts described in sections 163(b)(3) and 163(b)(2) of the Internal Revenue Code of 1986, and any other section of law applicable 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 INSTITUTE 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, to be available for the support of 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 these 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 Institutes and Centers of 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 Re- view, 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 PROVISION—THIS CHAPTER

SEC. 2601. (a) In addition to amounts otherwise 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 allotments under section 2604 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623); and

“(2) $100,000,000 for fiscal year 2008, for making allotments under section 2604 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 for carry out such section 2604(a) had been less than $1,975,000,000.
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 of Commerce, the National Oceanic and Atmospheric Administration, 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 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.

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, 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 provisions for designation and implementation under section 301 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.
for participation in the National Flood Insurance Program under the base flood evaluations current at the time of this construction; $1,657,000,000 shall be used for the Lake Pontchartrain and Vicinity; $1,200,000,000 shall be used for the West Bank and Vicinity project; and $1,250,000,000 shall be for elements of the Southeast Louisiana Urban Drainage Program. The amounts are within the geographic perimeter of the West Bank and Vicinity and Lake Pontchartrain and Vicinity projects to provide for interior drainage of runoff into the bayou with a 10 percent exceedance probability: Provided further, That none of this $3,362,000,000 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 authorized: 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 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 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, $348,000,000, 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 19, 1941 (33 U.S.C. 701n), for necessary expenses relating to the Mississippi River, the Mississippi River Delta, 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 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 levees and pump stations to ensure the operability of the stations during hurricanes, storms, and high water events; $459,000,000 shall be used for arming critical elements of hurricanes, hurricanes, and storm damage reduction system; $53,000,000 shall be used to improve protection at the Inner Harbor Navigation Canal; and $2,333,000,000 shall be used for other necessary expenses, including, but not limited to, evaluation of all options with par- ents 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 expenditures as provided above may be made without regard to individual amounts or purposes except 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 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: Provided further, That none of this $1,500,000 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 eli- gible national or regional projects, and to carry out other activities in response to recent natural disasters: Provided further, That the Chief of Engineers, acting through the Assistant Secretary of the Army, 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.

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 not participating in any program or activity under the authority of paragraph (10) of section 7(c) of the Small Business Act (15 U.S.C. 636(j)), was located in a parish or city in Louisiana or Mississippi that was affected by Hurricane Katrina of 2005, the period during which such 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.—Para- graph (1) applies to a parish or city 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 Adminis- trator 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) be- fore Hurricane Katrina is reviewed and brought into compliance with this subsection.

(b) DEFINITIONS.—In this section—

‘‘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. 3502. 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 public or private nonprofit corporation 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 Protection Act of 2008 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 of coverages located in an area in that District that require the purchase of flood insurance for any type or class of property located in an area that is not subject to a base flood elevation map; and such adjustment 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”, $25,000,000, 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.

NATIONAL PARK SERVICE
HISTORIC PRESERVATION FUND
For an additional amount for the “Historic Preservation Fund”, for expenses related to the conservation 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 potable 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.

CHAPTER 7
DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE AND MEDICAID SERVICES
For grants to States, consistent with section 201(a)(4) of the Deficit Reduction Act of 2005, that are not used for separate State programs, to make payments as defined by the Secretary in the methodology used for the Provider Stabilization grants to those Medicare Part B contractors and Medicare Part D Prescription Drug Plans, as defined in section 1860(b)(6) of the Social Security Act, and currently operating in the States of Louisiana or its designee or designees: Provided further, That notwithstanding any other provision of law, for the purpose of administering the amounts made available 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 331 of the United States Housing Act of 1937 (2 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 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 expenditures related to any 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 will address uncompensated housing damage: Provided further, That such funds may not be used for activities reimbursable by or for funds made available by the Federal Emergency Management Agency: Provided further, That the State shall make funds available within 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 requirement any provision of law or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds guarantees (or payments 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 that it is in the national interest for the Secretary to disapprove the waiver based on considerations of the purposes and policy of this title.

(2) Service on active duty in the Armed Forces has been especially arduous for the members of the Armed Forces of the United States who were called to the defense of the Nation, and the brave members of the Armed Forces of the United States to provide veterans who served on active duty in entry level and skill training who have a positive effect on recruitment for the Armed Forces.

(3) The current educational assistance program for veterans is outdated and modeled for personnel in the Armed Forces; and

(4) The people of the United States greatly value military service and recognize the difficult challenges involved 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.

(5) 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.

(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.


(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

"Sec. 3301. Definitions.

"SUBCHAPTER I—DEFINITIONS

"3301. Definitions.
May 21, 2008

CONGRESSIONAL RECORD — SENATE

§ 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)) an amount equal to 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 Secretary approves such program as meeting the requirements for inclusion in such program under section 3311 of this title. The Secretary may approve such a program only if the Secretary determines that the program of education is necessary and appropriate for the training of such individuals and is consistent with the national goals for higher education and the interests of the armed forces.

(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)(2) of this title, amounts equal to 50 percent of the amounts for the program of education under paragraph (1) rather than this paragraph.

§ 3312. Educational assistance: duration

(a) In general.—Subject to section 3363 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 described in paragraph (2) shall not—

(1) be charged against any entitlement to educational assistance of the individual concerned under this chapter; or

(2) be charged against any entitlement to educational assistance of the individual concerned under any other provision of law.

(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 charged against any entitlement to educational assistance of the individual concerned under any other provision of law.

(2) 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 to perform an increased amount of work; and

(3) 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 to perform an increased amount of work; and

(4) 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 to perform an increased amount of work; and

(5) An individual who

(B) failed to receive credit or lost training time toward completion of the individual's personal educational objective as a result of having to discontinue, as described in subparagraph (A), the individual's course pursuit.

(3) The Secretary may discontinue the payment of educational assistance described in subparagraph (A) if the Secretary finds that the individual—

(A)(i) in the case of an individual not serving on active duty, failed to report to the individual's place of official duty in the Armed Forces; 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 Marine Corps Reserve, or placement on the temporary disability retired list.

(3) A release from active duty in the Armed Forces for—

(A) a medical condition which preexists the service of the individual as described in the applicable paragraph of subsection (b) and which the Secretary determines is not service-connected;

(B) 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 periods 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 aggregate of less than 6 months; or

(3) A period of service on active duty of an aggregate of 6 months, is discharged or released from active duty as described in subsection (c).

§ 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)) an amount equal to 90 percent of the amounts for the program of education if the individual were entitled to educational assistance under this chapter by reason of section 3311(b)(2) 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 educational assistance under this chapter by reason of section 3311(b)(4) of this title, amounts equal to 50 percent of the amounts that would be payable to the individual under paragraph (1) rather than this paragraph.

(b) Approval of programs of education.—A program of education is an approved program of education if the Secretary finds that the program of education is necessary and appropriate for the training of such individuals and is consistent with the national goals for higher education and the interests of the armed forces.

(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)(2) of this title, amounts equal to 50 percent of the amounts for the program of education under paragraph (1) rather than this paragraph.

(2) 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 50 percent of the amounts that would be payable to the individual 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)(5) of this title, amounts equal to 70 percent of the amounts that would be payable to the individual 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)(6) of this title, amounts equal to 60 percent of the amounts that would be payable to the individual 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)(7) of this title, amounts equal to 50 percent of the amounts that would be payable to the individual 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)(8) of this title, amounts equal to 40 percent of the amounts that would be payable to the individual 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)(9) of this title, amounts equal to 30 percent of the amounts that would be payable to the individual under paragraph (1) rather than this paragraph.
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) Payment—(1) Payment of the amount 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 for which fractions thereof are entitled to 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 difference between the charges of the educational institution as elected by the individual in the manner specified in section 3014(b) 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 maximum amount of amounts otherwise payable to the individual under subsection (c).

(3) Payment of the amounts payable to an individual for pursuit of an approved 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 the percentage of the amount of educational assistance otherwise payable to the individual under this chapter that are chargeable under this chapter for pursuit of a program of education involved, divided by the number of course hours for full-time pursuit of such program of education.

(g) Payment of Established Charges to Educational Institution.—(1) Amounts payable under subsection (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.

(2) Established Charges Defined.—(1) In this section, the term ‘‘established charges’’ means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced nonveterans enrolled in these programs 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 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 paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7) of such section (as applicable).

(b) Conditions.—(1) The provision of benefits under subsection (a) shall be subject to the conditions applicable to an eligible veteran under section 3313.

(2) In addition to the conditions specified in paragraph (1), benefits may not be provided to an individual under subsection (a) unless the 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.

§ 3315. Licensure and certification tests

(a) In General.—An individual entitled to educational assistance under this chapter shall be entitled to additional educational benefits provided the individual passes the examination or certifying 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 to an individual under subsection (a) shall be in addition to the educational assistance benefits otherwise provided the individual under this chapter.

§ 3316. Supplemental educational assistance: members with critical skill or specialty; members serving additional service

(a) Increased assistance for members with critical skills or specialty.—(1) In the case of an individual who is designated by the Secretary concerned as a member with critical skill or specialty, or as otherwise payable under paragraphs (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 lesser of—

(A) the 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).

(B) The amount of the increase in 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).

(i) Any benefits provided an individual under section 3313(c) of this title, the Secretary shall carry out a program under which colleges and universities, voluntarily, enter into an agreement with the Secretary to carry out a program under which colleges and universities can, in addition to the amounts otherwise payable to the Secretary under section 3313(c)(1)(A), which contributions shall be matched by equivalent contributions toward such costs by the Secretary under section 3313(c)(1)(A).

§ 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(c) of this title), the Secretary may carry out a program under which colleges and universities can, voluntarily, enter into an agreement with the Secretary to cover a portion of the established charges otherwise covered under section 3313(c)(1)(A), which contributions shall be matched by equivalent contributions toward such costs by the Secretary, in accordance with such regulations as the Secretary of Defense shall prescribe.

§ 3318. Licensure and certification tests

(a) In General.—An individual entitled to educational assistance under this chapter shall be entitled to additional educational benefits provided the individual passes the examination or certifying 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 to an individual under subsection (a) shall be in addition to the educational assistance benefits otherwise provided the individual under this chapter.
“(b) DESIGNATION OF PROGRAM.—The program under this section shall be known as the ‘Yellow Ribbon G.I. Education Enhancement Program.’

(2) AGREEMENTS.—The Secretary shall enter into an agreement with each college or university seeking to participate in the program, on a selection. 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 and applicable 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.

(3) MATCHING CONTRIBUTIONS.—(1) In instances where the educational assistance provided an individual under section 3330(c)(1) 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 (including 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 (including mandatory fees).

(2) Amounts available to the Secretary under section 3330(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 educational assistance

(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 or training, 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 transportation.

(c) PROOF OF RESIDENCE.—For purposes of subsection (b)(1), an individual may demonstrate the individual’s place of residence utilizing one or more 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.

§3319. Suspension of educational assistance for failure to come to class

(a) EFFECTIVE DATE.—This section shall apply to courses or classes for which educational assistance is payable under section 3313 of this title on or after the date prescribed for purposes of paragraph (1) of section 3361(f) of this title.

(b) CONDITIONS.—The Secretary may suspend educational assistance payable under section 3313 of this title for the reasons specified in section 3361(f) of this title.

§3320. Bar to duplication of educational assistance

(a) IN GENERAL.—An individual entitled to educational assistance under this chapter who is also entitled to educational assistance under chapter 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 96-44; 5 U.S.C. 5561 note) may not receive educational assistance under this chapter.

(b) EXCEPTIONS.—(1) Subsections (b), (c), and (d) of section 3301 of this title shall not apply 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 3301 of this title with respect to the running of the 15-year period described in section 3301(a) of this title.

(2) Section 3301(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 this chapter, except that, in the administration of such section for purposes of this chapter, the reference to section 3301 of this title shall be deemed to refer to section 3301(a) 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 active duty of less than 90 days of continuous service, unless the individual is discharged or released as described in section 3301(b)(2) of this title.

§3322. Bar to duplication of educational assistance

(a) IN GENERAL.—An individual entitled to educational assistance under this chapter who is also entitled to educational assistance under chapter 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 96-44; 5 U.S.C. 5561 note) may not receive educational assistance under this chapter.

(b) EXCEPTIONS.—(1) Subsections (b), (c), and (d) of section 3301 of this title shall not apply 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 3301 of this title with respect to the running of the 15-year period described in section 3301(a) of this title.

(2) Section 3301(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 this chapter, except that, in the administration of such section for purposes of this chapter, the reference to section 3301 of this title shall be deemed to refer to section 3301(a) 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 active duty of less than 90 days of continuous service, unless the individual is discharged or released as described in section 3301(b)(2) of this title.

§3323. Administration

(a) IN GENERAL.—(1) Except as otherwise provided in this chapter, the provisions specified in section 3304(a)(1) of this title shall apply to the provisions 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.

(b) 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 to the term ‘educational assistance allowance’ shall be deemed to refer to educational assistance payable under section 3313 of this title.

§3324. Transportation

(a) IN GENERAL.—(1) Any regulations prescribed by the Secretary of Veterans Affairs shall provide that the provisions of paragraphs (1) and (2) to each member of the Armed Forces at such times as the Secretary of Veterans Affairs and the Secretary of Defense shall jointly determine in regulations.

(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 determine in regulations.

(c) REGULATIONS.—The Secretary shall prescribe regulations for the administration of this chapter.

§3325. Post-9/11 Educational Assistance

(a) ADMINISTRATION.—Except as otherwise provided in this chapter, the Secretary shall administer the provisions of educational assistance under this chapter.

(b) COSTS.—Payments for educational assistance earned under this chapter shall be made from funds appropriated to, or otherwise made available to, the Secretary for that purpose.

(c) Allocat that funding the availability of chapters at the beginning of title 38, United States Code, and at the beginning of part III of such title, are 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 3633 of title 38, United States Code, is amended—
(i) in subsection (a)(1), by inserting “or ”, 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 106 and 107 of title 10”.
(B) Paragraph (4) of section 3695(a) of such title is amended by inserting “the requirement for entitlement to educational assistance under chapter 33 of section 3011(c) or 3012(d)(1) of such title; or
(C) Section 1613(e) of title 10, United States Code, is amended by inserting “, after “32 “.
(2) ADDITIONAL CONFORMING AMENDMENTS.—
(A) Title 38, United States Code, is further amended by inserting “33”, after “22 “.
(B) Section 3697(a)(4) of such title is amended by striking “or “32 “ and inserting “or “33 “,
(C) APPLICABILITY TO INDIVIDUALS UNDER MONTGOMERY GI BILL PROGRAM.—
(1) INDIVIDUALS ELIGIBLE TO ELECT PARTICIPATION IN POST-911 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, 2001—
(i) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, and has not used, by reason under chapter 30 of title 38, United States Code, and has not used, by reason of an election made by an individual making an election under paragraph (1) who is described by clause (i), (ii), or (iii) of subparagraph (A) of that paragraph, the number of months of entitlement to educational assistance under chapter 33 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)(ii) 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 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); and
(C) Timing of Payment.—The amount payable with respect to an individual under sub-paragraph (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).
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 paragraphs (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"

"(B) for months occurring during the period beginning on August 1, 2008, and ending on the last day of fiscal year 2009, $1,073; 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, $1,321; and"

"(B) for months occurring during the period beginning on August 1, 2008, and ending on the last day of fiscal year 2009, $1,073; and"

(2) by redesignating subparagraph (D) as subparagraph (B).

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 payment to an individual entitled to unemployment compensation to individuals who files an application for emergency unemployment compensation, an emergency unemployment compensation account with respect to such individual under such law which is in an extended benefit period, an amount equal to the amount originally established in such account (as determined under section 205(b)(1)).

(c) SPECIAL RULE.—(1) In General.—Notwithstanding any other provision of this section, if, at the time that the individual's account is exhausted, 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, and (3) 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) Effective Date.—(1) In general.—The amendments made by this section shall take effect on August 1, 2008.

(2) No costs-of-living adjustment for fiscal year 2009.—The adjustment required by subsection (b) 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. 5002. (a) In General.—Any agreement under this title shall provide that the State will establish, for each eligible individual which files an application for emergency unemployment compensation to individuals who files an application for emergency unemployment compensation, an emergency unemployment compensation account with respect to such individual under such law which is in an extended benefit period, an amount equal to the amount originally established in such account (as determined under section 205(b)(1)).

(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 paid to the individual which is not covered by section 905(a) of the Act.

(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 for the payment of unemployment compensation to individuals who files an application for emergency unemployment compensation, an emergency unemployment compensation account with respect to such individual under such law, or

(d) Election by States.—Notwithstanding any other provision of Federal law (and if State permits), the Governor of a State which is a party to an agreement under this title 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. 5003. (a) In General.—There shall be established in the emergency unemployment compensation account (as may be determined by the Secretary) for any eligible individual who files an application for emergency unemployment compensation, an emergency unemployment compensation account with respect to such individual under such law if the Governor of a State which is a party to an agreement under this title and which desires to do so may enter into and participate in an agreement under this title an amount equal to 100 percent of the emergency unemployment compensation paid to individuals by any State pursuant to the 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 which is not covered by section 905(a) of the Act.

(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 for the payment of unemployment compensation to individuals who files an application for emergency unemployment compensation, an emergency unemployment compensation account with respect to such individual under such law, or

(d) Election by States.—Notwithstanding any other provision of Federal law (and if State permits), the Governor of a State which is a party to an agreement under this title 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. 5004. (a) In General.—Funds in the emergency 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 the 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 take payment to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established).

The Secretary of the Treasury (as so established) of the Unemployment Trust Fund (as so established) 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 maintaining the administration of agreements under this title.

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) for the services of 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 maintaining the administration of agreements under this title.

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) for the services of 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 maintaining the administration of agreements under this title.

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) for the services of 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 maintaining the administration of agreements under this title.

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) for the services of 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 maintaining the administration of agreements under this title.

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) for the services of 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 maintaining the administration of agreements under this title.

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) for the services of 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 maintaining the administration of agreements under this title.

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) for the services of 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 maintaining the administration of agreements under this title.

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) for the services of 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 maintaining the administration of agreements under this title.

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) for the services of 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 maintaining the administration of agreements under this title.

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) for the services of 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 maintaining the administration of agreements under this title.

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) for the services of 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 maintaining the administration of agreements under this title.

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) for the services of 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 maintaining the administration of agreements under this title.

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) for the services of 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 maintaining the administration of agreements under this title.

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) for the services of 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 maintaining the administration of agreements under this title.

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) for the services of 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 maintaining the administration of agreements under this title.

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) for the services of 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 maintaining the administration of agreements under this title.

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) for the services of 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 maintaining the administration of agreements under this title.

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) for the services of 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 maintaining the administration of agreements under this title.

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) for the services of 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 maintaining the administration of agreements under this title.
Regulations, as required to carry out section 1903(w)(7)(A)(viii) of the Social Security Act, as amended by section 6561 of the Deficit Reduction Act of 2005 (Public Law 109-171).

(2) 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. 1395w–2(c)(1)(D)) is amended—

(A) by redesignating subsection (B) as subsection (C); and

(B) by adding at the end the following new paragraph:

‘‘(b) ASSET VERIFICATION PROGRAM.—

(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 on or after 6 months after the deadline established for submittal of such plan amendment.

(3) PHASE-IN.—

(A) IN GENERAL.—

(1) IMPLEMENTATION IN CURRENT ASSET VERIFICATION DEMO STATES.—The Secretary shall require each State that is a designated demo state 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.

(B) IMPLEMENTATION IN OTHER STATES.—

The Secretary shall require each State to implement an asset verification program under this subsection in such manner as is designed to result in the application of an asset verification program to 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:

(1) 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.

(2) CONSTRUCTION.—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.

(3) STATES SPECIFIED.—The States specified in this subparagraph are California, New York, and New Jersey.

(4) EXEMPTION OF TERRITORIES.—

(a) IN GENERAL.—For purposes of this section, an asset verification program means a program described in paragraph (2) under which a State—

(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 a written notification to the State.

(b) TREATMENT OF PROGRAM EXPENSES.—

(1) An authorization obtained by the Secretary under subsection (b)(1)(A) shall be considered to meet the requirements of the Right to Financial Privacy Act of 1978 for purposes of section 1104(a)(3) of such Act, relating to a reasonable description of financial records.

(2) The certification requirements of section 1103(b) of the Right to Financial Privacy Act of 1978 shall not apply if the certification requirements of such section are deemed to meet the requirements of the Right to Financial Privacy Act of 1978 and of section 1102 of such Act, relating to a reasonable description of financial records.

(3) 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 prescribed under section 1103(b)(2) and section 1003(i)(2). In carrying out activities under such contract, such an entity shall be subject to the same requirements and limitations on distribution of information as would apply if the State were to carry out such activities directly.

(4) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical assistance to aid in implementation of an asset verification program under this section.

(5) 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.
Secretary approves) a corrective action plan the State submits to the Secretary (and the good faith effort to comply;
amounts expended by such State for medical assistance for individuals subject to asset
new paragraph:
subsection:
18 months after the date of the enactment of
QUALIFY FOR HOSPITAL EXCEPTION TO OWNER-
THE PROHIBITION ON CERTAIN PHYSI-
RATION TO THE PROHIBITION ON CERTAIN PHYSI-
Section 4 of Public Law 110—
—
—
The hospital submits to the Secretary an annual report containing a detailed de-
the identity of each physician owner and any other owners of the hospital; and
the hospital has procedures in place to require that any referring physician owner discloses to the patient being referred, at a time that permits the patient to make a meaningful decision regarding the receipt of care, as determined by the Secretary—
(1) the ownership interest of such refer-
physician in the hospital; and
(2) if applicable, any such ownership in-
interest of the treating physician.
(3) The hospital does not condition any physician owner's interest either directly or indirectly on the physician owning or influencing referrals to the hospital or otherwise generating business for the hos-
(iv) The hospital discloses the fact that the hospital is partially owned by physi-
(1) on any public website for the hospital; and
(2) in any public advertising for the hos-
(1) ENSURING BONA FIDE INVESTMENT—
(1) Physician owners in the aggregate do not own more than the greater of—
(1) on November 1, 2009.
(1) OPPORTUNITY FOR COMMUNITY INPUT—
The process under clause (i) shall provide individ-
uals and entities in the community that the applicable hospital applying for an ex-
ception is located with the opportunity to provide input with respect to the applica-
(1) TIMING FOR IMPLEMENTATION—The Secretary shall implement the process under clause (i) on November 1, 2009.
(1) FREQUENCY—The process described in subparagraph (A) shall permit an applicable hospital to apply for an exception up to once every 2 years.
(1) PERMITTED INCREASE—
(1) in General.—Subject to clause (ii) and subparagraph (D), an applicable hospital granted an exception under the process de-
scribed in subparagraph (E)(iv) shall not 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 the date of enactment of this subsection.
(2) LIFETIME 100 PERCENT INCREASE LIMITA-
THE SECRETARY shall not permit an increase in the number of operating rooms, procedure rooms, and beds of the applicable hospital under clause (i) the extent such increase would result in the number of oper-
ing 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.
(3) 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 LIMIT TO FACILITIES ON THE MAIN CAMPUSS OF THE HOSPITAL.—Any increase in the number of operating rooms, procedure rooms, and beds of an applicable hospital under the program under title XIX 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. 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 Medicare 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 amounts as the Secretary determines appropriate. ‘‘(3) FUNDING LIMITATION.—Amounts in the Fund shall be available in advance of appropriations and 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. 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 97–061, 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”) by the center of medical support orders (or 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 FAQI FUND. Section 1848(b)(2) of the Social Security Act (42 U.S.C. 1395w–4(a)(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)— (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 S. 7101. This chapter may be cited as the ‘‘Close the Contractor Fraud Loophole Act’’. REVISION OF THE FRAUD PREVENTION ACT 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 S. 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 S. 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 201(b) 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— ‘‘(1) 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 of its 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; ‘‘(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(c) of the Fair Labor
Standards Act of 1938 (29 U.S.C. 201(f)) or agricultural labor under section 3121(c) 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 agriculture that the alien.

(5) SECRETARY.—Except as otherwise provided, the term ‘‘Secretary’’ means the Secretary of Homeland Security.

(b) 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) EFFECTIVE DATES.—

(1) THE ENACTMENT OF THIS ACT.—Sections 8021 and 8031 shall take effect on the date that is 1 year after the date of the enactment of this Act.

(2) THE EMPLOYMENT PERIOD BEGINNING ON THE FIRST DAY OF THE EMPLOYMENT; OR

(3) THE ENACTMENT PERIOD BEGINNING ON THE DATE OF THE ENACTMENT OF THIS ACT.

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 grant emergency agricultural worker status to an alien who qualifies under this section if the Secretary determines that

(1) during the 48-month period ending on December 31, 2007:

(A) performed agricultural employment in the United States for at least 800 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 sections 212 of the Immigration and Nationality Act (8 U.S.C. 1101), except as otherwise provided under section 8011; 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 defined in section 8(c)(1)(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 8011;

(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).

(b) EXCEPTION.—

(1) IN GENERAL.—An alien shall perform at least 100 work days of agricultural employment per year to maintain emergency agricultural worker status.

(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 8012(c).

(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 employer’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.—

(1) 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 paragraph (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.

(2) LIMITATION APPLICABLE UNDER CLAUSE (1) FOR FAILURE TO PROVIDE RECORDS.—Such penalty applicable under clause (1) shall not apply unless the employer 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 $300 to the Secretary.

(b) 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.—An alien granted emergency agricultural worker status under this section shall continue until the earlier of

(1) the date on which such status is terminated pursuant to section 8011(h); 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 483(a)(1) 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 for which such a status was granted 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 eligibility of all taxes required under this subsection.

(d) TREATMENT OF SPOUSES AND MINOR CHILDREN.—

(1) GRANTING OF STATUS AND REMOVAL.—

(i) IN GENERAL.—An alien granted emergency agricultural worker status shall be granted the same immigration benefits and privileges as a spouse or minor child granted derivative 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 period of permanent resident status of the emergency agricultural worker status under section 8011(h).

(ii) 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 shall be authorized to work in the United States and 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 worker status.

(4) GROUNDS FOR DENIAL OF STATUS AND REMOVAL.—The Secretary shall deny an alien spouse or child adjustment of status under this section (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) is the subject of an order of removal or deportation 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; or

(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 section shall 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 is represented by an attorney or a nonprofit religious, charitable, social service, or similar organization recognizing 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) a state or another person designated by the Secretary if the Secretary determines such person is qualified and has substantial experience, demonstrated competence, and a history of representation in the preparation and submission of applications for adjustment of status under section 299, 210, or 245 of the Immigration and Nationality Act (8 U.S.C. 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 89–752; 8 U.S.C. 1255 note), the Immigration and Control Act of 1966 (Public Law 90–603; 100 Stat. 1255 note) 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 an alien requests such assistance and the alien has performed the days or hours of work required under section 8011(a)(1) by producing sufficient evidence to show that employment was 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 by a state or another person designated by the Secretary under subsection (a)(2) if the applicant has consented to such forwarding;

(B) not to forward to the Secretary any such application where 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.—Flies and records collected or compiled by a qualified designated entity for 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.—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 shall—

(A) using information provided by the alien to an applicant to a qualified designated entity, or any information provided by an employer or former employer for any purpose other than to verify information 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, to examine individual applications.

(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

(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)(9)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(C)(i)).

(h) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1334, as added by Pub. L. 104–135) 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) PAYMENT.—The Secretary shall periodically publish a schedule of fees set forth in section 504(a)(11) of Public Law 104–134 (110 Stat. 1334, as added by Pub. L. 104–135) for the benefit of applicants.

(A) shall be charged for the filing of an application for emergency agricultural worker status; and

(B) shall 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) for services provided to applicants.

(3) DISPOSITION OF FEES.—

(A) IN GENERAL.—There is established in the general fund of the Treasury a separate fund which shall be known as the “Emergency 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 “Emergency 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 FOR INADMISSIBILITY.—In the determination of an alien’s eligibility for emergency agricultural worker status, the alien shall be regarded as not having arrived at any time in excess of the numerical limitation applicable to the alien under section 212(a)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(B)), other than as provided in section 214(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1183(c)(5)).
worker status, the following rules shall apply:

(1) **Grounds of Exclusion Not Applicable.**—The provisions of paragraphs (5), (6)(A), (6)(B), and (6)(C) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(2) **Waiver of Other Grounds.**—If the alien, 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 reasons or toFamily unity, or if otherwise in the public interest.

(3) **Special Rule for Determination of Public Charge.**—An alien is not ineligible for emergency agricultural worker status by reason of the adverse determination 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, and is able to show that he or she is not dependent solely on public assistance or any similar reliance on public cash assistance.

(4) **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 801(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 authorization 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 801(a)(2) 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 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 authorization or other appropriate work permit for such purpose.

SEC. 8013. 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) **Extraordinary Review.**—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and any 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 provided to the alien in 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 of law 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 such record as a whole.

SEC. 8016. DISSEMINATION OF INFORMATION.

Beginning not later than the first day of the application period described in section 801(a)(2), the Secretary, in cooperation with qualified designated entities (as that term is defined in section 801(b)(3)), 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 AND 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 adopted, and shall apply to the application period described in section 801(a)(2). Beginning not later than the first day of the seventh month that begins after the date of enactment of this Act, the provisions of paragraphs (5), (6)(A), (6)(B), (6)(C), (6)(D), (6)(G), (6)(H), (6)(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).

SEC. 8018. PRECLUSION OF SOCIAL SECURITY CREDITS FOR PERIODS WITHOUT WORK AUTHORIZATION.

(a) **Insured Status.**—Section 214(a) of the Social Security Act (42 U.S.C. 414(a)) is amended by adding at the end the following:

"(d)(1) Except as provided in paragraph (2), for purposes of insurance (as defined in section 211), a period of coverage shall not begin before the end;".

(b) **Effectiveness 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 in 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 that describes the wages and other employment conditions of the nonimmigrant H-2A worker, along with evidence that the employer is prepared to make a bona fide offer of employment.

(3) **Job Opportunities Covered by Collective Bargaining Agreement.**—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 the bona fide union and the former occupant.

(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.

(4) **Preclusion of Social Security Credits.**—Except as provided in paragraph (1), an alien who was employed in the United States during a period of employment covered by a collective bargaining agreement shall not be counted for any year for which no quarter of coverage may be credited to such individual pursuant to section 214(d)."

(b) **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. Section 208(e) of the Social Security Act (42 U.S.C. 408(e)) is amended—

(1) in subparagraph (B) 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.";

(c) **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 C—H-3A Worker Program

SEC. 8022. H-3A WORKER PROGRAM.
(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 representatives of the employer’s employees in the occupational classification at the place or places of employment for which aliens are sought.

(D) Offers to United States Workers.—The employer has offered or will offer each nonimmigrant worker 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.

(E) Provision of Insurance.—If the job opportunity is not covered by the State workers’ compensation law, the employer will provide insurance covering injury and disease arising out of, and in the course of, the employer’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) Nonplacement of United States Workers.—The employer did not place and will not place 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, 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) the employer has inquired of the other employer and has received actual or constructive 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 placed or intends to place 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 of the employer under subsection (a) and (E) of an employer if the other employer described in such subparagraph places 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 is at least equal to those provided under the State’s workers’ compensation law for comparable employment.

(ii) Employment of United States Worker.—

(I) Recruitment.—The employer has taken all reasonable steps to recruit United States workers for the job opportunities for which the H-2A nonimmigrant is, or H-2A nonimmigrants are, sought.

(II) 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. The letter 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 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.

(III) 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 nature for which the certificate was issued, 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 subparagraph shall be construed to require the employer to file an interstate job order under section 652 of title 20, Code of Federal Regulations.

(IV) Emergency Procedures.—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 advise the availability of the job opportunities for which the employer is seeking workers in the local labor market that is likely to be patronized by potential farm workers.

(V) Statutory Construction.—Nothing in this subparagraph shall be construed to prohibit an employer from using 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 on behalf of 1 or more of its member employers if the employers certify that they have, or will have, the ability to perform the certification requirements of this section and sections 218A, 218B, and 218C.

(2) Treatment of Applications 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 association shall be considered an employer for purposes of this section and sections 218A, 218B, and 218C.

(f) 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 member employers. 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 the application is employed by the employer.

(3) Obligations Under Other Statutes.—Any obligation incurred by an employer under another 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."

(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 who complete the work for which the temporary labor certification was obtained 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 or more 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) to the employer’s 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, following 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 agreed to provide or pay for the worker’s transportation and subsistence to such subsequent employer’s place of employment.

(3) Reimbursement Provided under Paragraph (A) or (B) to a worker or alien shall not exceed the lesser of—

(i) the actual cost to the worker or alien of transportation and subsistence involved;

(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).

(G) Housing Allowance as Alternative.—

(i) In General.—If the requirement set out in clause (ii) of this paragraph applies, 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 218(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1907) solely by virtue of providing a housing allowance. Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be included under paragraph (1)(G) to 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.

(ii) Amount of Reimbursement.—Except as provided in clause (iii), 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 transportation and subsistence involved;

(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

(iii) Nonmetropolitan Counties.—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 who complete the work for which the temporary labor certification was obtained 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.
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 determined by section 954.107 of title 20, Code of Federal Regulations.

(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—If Congress does not set a new wage standard applicable by January 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 authorized by law, that 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 ¼ guarantee described in paragraph (d);

(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 agriculture has depressed wages paid to United States farm workers 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 prevailing practices, 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.

(H) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

(I) GUARANTEE OF EMPLOYMENT.—(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least ¼ 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, up to the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent shall be determined as the total number of work days stated 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 20 hours a week, 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 of the United States worker to other comparable employment or returns to his or her own country, or while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or engaged in transportation incidental thereto.

(V) COMMON CARRIERS EXCLUDED.—This subsection does not apply to the transportation of an H-2A worker by a common carrier, unless specifically requested or arranged such transportation; or

(VI) MOTOR VEHICLE SAFETY.—(A) Mode of Transportation Subject to Coverage.—(i) In General.—Except as provided in clauses (ii) and (v), 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 prevision or post-season of employment. In such cases, the employer shall provide the return transportation required in paragraph (B).

(ii) Definitions.—In this paragraph, the term ‘uses or causes to be used’—

(A) applies only to transportation provided by an H-2A employer; or by a farm labor contractor to an H-2A worker at the request or direction of an H-2A employer; and

(B) 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 worker’s own vehicles, or any vehicles requested by the employer directly or through a farm labor contractor.

(III) CLARIFICATIONS.—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.—(A) Mode of Transportation Subject to this Subsection.—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, or any other machine or equipment by which such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or engaged in transportation incidental thereto.

(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 subsection applies, the employer shall—

(1) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Motor Vehicle Safety Act of 1968, as amended, and Section 601 of the National Cooperative Highway Research Program Act (29 U.S.C. 1401(b)) and other applicable Federal and State safety standards;

(2) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

(C) Commission on Wage Standards.—(I) Establishment.—There is established the Commission on Agricultural Wage Standards, pursuant to subsection 2A of the Agricultural Adjustment Act of 1933 (7 U.S.C. 601-613), to determine the agricultural wages which will tend to eliminate competition by wage differentials in the States, in the absence of a prevailing wage standard, would be necessary to prevent wages of United States farm workers had not been employed in the United States.
‘(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 use 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.—The employer of an 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 paragraphs 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 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 by such State law.

‘(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this subsection, 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 provision 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, a separate employment contract.

‘(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218A of chapter 2A of subchapter II of this title shall limit the authority of 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 of Labor. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(b)(2)(B) covering the petition.

‘(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 petitioners in the case of approval, the case of denial, the case of approval with condition, the case of approval with condition, the case of approval with condition, and the case of approval with condition, to the appropriate immigration officer at the port of entry or United States consulate consular (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) CONTINUED ABILITY OF BENEFICIARY.

‘(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 if

‘(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 as an alien as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

‘(d) 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) as provided in the preceding sentence is present in the United States, the alien may apply for 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 a 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).

‘(e) PERIOD OF ADMISSION.—

‘(1) IN GENERAL.—Any alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(b)(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;

‘(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.

‘(f) ABANDONMENT OF EMPLOYMENT.

‘(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(A) who abandons the employment described in a petition pursuant to section 218(b)(2)(H)(iii), if the alien abortion is in fact eligible for employment.

‘(2) REQUIREMENTS.

‘(A) The document shall 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 has been convicted of criminal offenses.

‘(B) 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 classification and employment eligibility document to verify eligibility for employment in the United States and to verify the alien’s identity.

‘(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;

‘(B) to a date that is more than 3 years after the date of the alien’s last admission to the United States;

‘(C) 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) DETERMINATION.—For purposes of subparagraph (A), the term ‘filed’ means sending the petition by certified mail via the United States Postal Service...
“(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)(ii)(I).

(2) CLASSIFICATION PETITION.—In the case of an alien seeking 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.

(3) LIMITATION ON AN INDIVIDUAL’S STAY IN THE UNITED STATES.—

(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 1/3 the duration of the alien’s 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.

(4) EFFECT OF APPLICATION.—The filing of a petition described in paragraph (2) or an application for adjustment of status based on the approval of such petition shall constitute evidence of an alien’s ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(a).

(B) 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 for up to 1 year from the date on which the petition 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.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting the same employer.

(a) AGGRAVATED PERSON OR THIRD-PARTY COMPLAINT.—The Secretary shall provide, within 30 days after the date such complaint is filed, a finding described in subparagraph (C), (D), (E), or (G) of this paragraph, if the Secretary finds, after notice and opportunity for hearing, in the specific employment in question. The Secretary shall not impose civil money penalties in an amount not to exceed $5,000 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 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), 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 $15,000 per violation) as the Secretary of Labor determines to be appropriate; and

(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of such section.

(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) REQUIREMENTS TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for hearing, that the employer has failed to pay the appropriate wages or required benefits, including civil money penalties in an amount not to exceed $15,000 per violation as the Secretary of Labor determines to be appropriate; and

(i) the Secretary of Labor may impose an order for the 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 order 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 Federal Mediation and Conciliation Service to conduct any compliance investigation under any other law, including any law affecting migrant and seasonal agricultural workers, in the absence of a complaint under this section, under section 218 or 218A.

"(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHTS OF ACTION.—Every worker 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)(2).

"(2) The reimbursement of transportation as required under section 218A(b)(2).

"(3) The payment of wages required under section 218A(c)(3) when due.

"(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218A(e)(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 receipt or the 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 the 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 cooperate with the parties in assisting them in reaching a settlement, and, within 90 days after the request for mediation and the complaint have been filed, the Secretary of Labor under subsection (a)(1)(B) 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.—A provision that attempts to preclude the rights or remedies of an H-2A worker under any other Federal or State law or regulation under 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 under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce any such laws.

"(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 voluntary waivers of rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The proceeding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

"(6) AWARD OF DAMAGES OR OTHER EQUIVALENT 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 section 1404 of title 28, United States Code.

"(7) WORKERS’ COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

"(A) Notwithstanding any other provision of this section, where a State workers’ compensation law is applicable and coverage is provided for an H-2A worker, the workers’ compensation benefits shall be the exclusive remedy for any 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 any 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 the workers’ compensable injury or death.

"(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 bringing 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.
(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 title, 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.

(3) SEC. 218D. DEFINITIONS.

(a) Schedule of fees.

The term ‘schedule of fees’ 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 labor, 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.

(b) 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.

(c) 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).

(d) Employer.

The term ‘employer’ means any person or entity, including any farm labor contractor and any agricultural commodity, thereby reducing the need for labor.

(e) Seasonal.

The term ‘seasonal’ basis if—

(A) the term ‘employ’ 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.

(f) Secretary.

The term ‘Secretary’ means the Secretary of Homeland Security.

(g) Temporary.

The term ‘temporary’ basis where the employment is intended not to exceed 10 months.

(h) United States worker.

The term ‘United States worker’ 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.


(8) Job opportunity.

The term ‘job opportunity’ means a job opening for temporary or permanent full-time employment at a place in the United States to which United States workers can be referred.

(9) Laying off.

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 incompetence, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218a(b)(4)(D)), or temporary suspension of work because of weather, markets, or other temporary conditions; but

(ii) does not include any situation in which a worker is laid off, because of 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 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 worker was discharged, regardless of whether or not the employee accepts the offer.

(10) Statutory construction.

Nothing in this paragraph is intended to limit an employee’s rights under a collective bargaining agreement or other employment contract.

(11) 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 applicant or other filing entity 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.

(12) Seasonal.

—Labor is performed on a ‘seasonal’ basis if—

(A) the term ‘employ’ 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.

(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 an alien lawfully admitted for permanent residence, or any other alien who is authorized to work within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(A).

(15) 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 heading ‘section 218’ and inserting the following:

“Sec. 218. H-2A employer applications.

Sec. 218A. H-2A worker employment requirements.

Sec. 218B. Provisions 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 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 collecting process for such fees from employers. Such fees shall be the only fees chargeable to employers for services provided under such amendment.

(b) Procedure.

(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 to aliens pursuant to such amendment. The Secretary shall consult with the Secretary of Agriculture on all regulations to implement the duties of the Secretary of Labor under this title and the amendments made by this title.

(c) 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. 8032. REPORTS TO CONGRESS.

(a) Annual report.

Not later than September 30 of each year after the enactment of this Act, the Secretary shall submit a report to Congress that identifies, for the previous year—


(2) the number of such aliens reported to have abandoned employment pursuant to subsection 218B(d) 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 801(a); and

(5) the number of such aliens whose status was adjusted under section 801(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 8001. SHORT TITLE.

This Act may be cited as the “Telework Enhancement Act of 2008”.
SEC. 9002. EXECUTIVE AGENCIES TELEWORK REQUISITION.

(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; and

(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; and

(2) require a written agreement between an agency manager and an employee authorized to telework in order for that employee to participate in telework.

(c) EXCEPT OR EMERGENCY SITUATIONS AS DETERMINED BY AN AGENCY HEAD, NOT APPLY TO—

(1) employees who are on emergency leave; and

(2) employees who are 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 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.

(d) PARTICIPATION DETERMINED BY AGENCY HEAD, NOT APPLY TO—

(1) employees who are on emergency leave; and

(2) employees who are 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 REQUISITION.

(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; and

(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; and

(2) require a written agreement between an agency manager and an employee authorized to telework in order for that employee to participate in telework.

(c) EXCEPT OR EMERGENCY SITUATIONS AS DETERMINED BY AN AGENCY HEAD, NOT APPLY TO—

(1) employees who are on emergency leave; and

(2) employees who are 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.

(d) PARTICIPATION DETERMINED BY AGENCY HEAD, NOT APPLY TO—

(1) employees who are on emergency leave; and

(2) employees who are 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. 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; and

(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) CONTROL OF OPERATIONS PLANS.—During any period that an agency is operating under a continuity of operations plan, that plan shall supersede any telework policy.

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) APPRAISATIONS 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 ‘‘Telework Coordinator’’ and inserting ‘‘Telework Managing Officer’’.

(B) APPRAISATIONS ACT, 2005.—Section 622 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agences Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2019) is amended by striking ‘‘Telework Coordinator’’ and inserting ‘‘Telework Managing Officer’’.

(c) TELEWORK WEBSITE.

(1) MAINTAIN A CENTRAL TELEWORK WEBSITE.—The Telework Managing Officer shall—

(A) maintain a central telework website;

and

(B) include on that website related—

(A) telework links;

(B) announcements;

and

(C) guidance developed by the Office of Personnel Management; and

(d) TELEWORK website.

(1) APPOINTMENT.—The Telework Managing Officer shall—

(A) be in compliance with this Act and on an annual basis thereafter, report to Congress on the progress of each executive agency in teleworking during the preceding 12-month period provided by each executive agency; and

(2) assess the progress 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; and

(B) the number and percent of employees who are participating in telework.

Not later than 90 days after the date of submission of each report, the 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.

(d) CHIEF HUMAN CAPITAL OFFICE 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 Officer of that agency containing a summary of—

(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) COMPLIANCE REPORTS.—Not later than 90 days after the date of submission of each report under paragraph (1), the Telework Managing Officer of each executive agency shall submit a report to the Office of Personnel Management that includes a summary of—

(1) the number and percent of employees who are participating in telework during the period covered by the evaluation, including—

(A) the number and percent of employees in the agency who are eligible to telework; and

(B) the number and percent of employees who are participating in telework.

Not later than 90 days after the date of submission of each report under paragraph (1), the Telework Managing Officer of each executive agency shall submit a report to the Office of Personnel Management that includes a summary of—

(1) the number and percent of employees who are participating in telework during the period covered by the evaluation, including—

(A) the number and percent of employees in the agency who are eligible to telework; and

(B) the number and percent of employees who are participating in telework.

(2) any obstacles which hinder the ability of that manager to promote telework opportunities.

(f) CHIEF HUMAN CAPITAL OFFICE REPORTS.—

(1) MAINTAIN A CENTRAL TELEWORK WEBSITE.—The Telework Managing Officer shall—

(A) maintain a central telework website; and

(B) include on that website related—

(A) telework links;

(B) announcements;

and

(C) guidance developed by the Office of Personnel Management; and

(d) TELEWORK WEBSITE.

(1) APPOINTMENT.—The Telework Managing Officer shall—

(A) be in compliance with this Act and on an annual basis thereafter, report to Congress on the progress of each executive agency in teleworking during the preceding 12-month period provided by each executive agency; and

(2) assess the progress 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; and

(B) the number and percent of employees who are participating in telework.

Not later than 90 days after the date of submission of each report, the 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.

(f) CHIEF HUMAN CAPITAL OFFICE 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 Officer of that agency containing a summary of—

(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) COMPLIANCE REPORTS.—Not later than 90 days after the date of submission of each report under paragraph (1), the Telework Managing Officer of each executive agency shall submit a report to the Office of Personnel Management that includes a summary of—

(1) the number and percent of employees who are participating in telework during the period covered by the evaluation, including—

(A) the number and percent of employees in the agency who are eligible to telework; and

(B) the number and percent of employees who are participating in telework.

(2) any obstacles which hinder the ability of that manager to promote telework opportunities.
by the Office of Management and Budget or the executive agency to eliminate noncompliance.

SEC. 9006. EXTENSION OF TRAVEL EXPENSES CREDIT FOR IMMIGRANTS.

(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 “18 years”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if it were enacted as part of the Travel and Transportation Reform Act of 1998 (Public Law 105–261; 112 Stat. 2126).

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 which 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) shall be considered a direct emergency 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 the 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 Department 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 EMPLOYER 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)—


(B) by striking “or 2004” and inserting “2004, or 2006”; and

(C) by striking “shall be available” and all that follows through the end 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 note), except for employment-based immigrants whose petitions 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 paragraph (1) or (2) of 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 2003” and inserting “year 1994 and each subsequent fiscal year”; and

(B) in subparagraph (B)—

(i) in clause (i), by striking “1”; and

(ii) by adding at the end the following new paragraph:

“(1) EMPLOYMENT-BASED VISA RECAPTURE FEE.—A fee shall be paid in connection with any petition seeking an employment-based immigrant visa number recaptured under paragraphs (1) through (4) of section 203(d) of the Immigration and Nationality Act (8 U.S.C. 1153(d)) or (2) of such Act (8 U.S.C. 1151(a) and 1152(a)) shall not apply.

(2) LIMITATION ON NUMBER OF VISAS.—The Secretary of Homeland Security shall not make available 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.

(4) FEE FOR USE OF VISAS UNDER SUBSECTION (a).—

(a) 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—

“(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 Professions 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).

(b) 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.

(c) 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. 263 note) is amended by adding at the end the following:

“SEC. 852. 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 consultation with subgrantees of such grants, to eligible schools of nursing that submit 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:

— the number of FTE nursing faculty at the school multiplied by $1,500
— the number of FTE nursing students at the school multiplied by $1,500
— the number of full-time nursing students at the school multiplied by $1,500

(2) LIMITATION ON AMOUNT AVAILABLE FOR GRANTS.—The Secretary may not award grants under this section that aggregate to more than $25,000,000 each fiscal year.
"(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 advance degree, or in nursing leading to a doctoral degree or an equivalent degree;

(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 master degree in nursing or an equivalent degree; or

(ii) the school has increased enrollment in the program (as described in subparagraph (A)) for each of the preceding 3 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 interdisciplinary 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, in order to facilitate 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 eligible to serve as providers within 12 months of graduation, and in the trend to advance in appropriations Acts. Such amounts are authorized to remain available until expended.

(5) The school will submit an annual report on the school with respect to—

(A) Establishing or significantly expanding an accelerated baccalaureate degree nursing program designed to graduate new nurses in 12 to 18 months.

(B) Developing post-baccalaureate residency programs for the use of the interdisciplinary team approach to the delivery of health services.

(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, in order to facilitate 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 eligible to serve as providers within 12 months of graduation, and in the trend to advance in appropriations Acts. Such amounts are authorized to remain available until expended.

(6) 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 for each of the 3 academic years preceding submission of the grant application.

(2) The school will maintain 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.

(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—

(1) the school will maintain a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent; and

(2) the school will maintain 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 for which the grant is awarded, the school will comply with the following:

(2) The school will maintain a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent; and

(3)(A) Subject to subparagraphs (B) and (C), the first-year enrollment of full-time nursing students at 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 limited student enrollment; or

(ii) the school has increased enrollment in the school (as described in subparagraph (A)) for each of the preceding 3 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 interdisciplinary 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, in order to facilitate 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 eligible to serve as providers within 12 months of graduation, and in the trend to advance in appropriations Acts. Such amounts are authorized to remain available until expended.

(f) REPORTS TO CONGRESS.—

(1) The school will maintain a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent for each of the 2 preceding academic years.

(2) The school will maintain a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent for each of the 2 preceding academic years.

(3) The school will maintain a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent for each of the 2 preceding academic years.

(4) Not later than 18 months after the date of the enactment of this section, an interim report on such results; and

(5) 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.

(2) 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.

§§ 323. DOMESTIC NURSING ENHANCEMENT ACCOUNT.

(a) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account which the Secretary may name the ‘Domestic Nursing Enhancement Account.’ Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all grants under section 106(f) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313). Nothing in this subsection shall prohibit the deposit 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 322. Such amounts shall be available for obligation only to the extent that the amounts are authorized to be appropriated by law and are reflected in advance in appropriations Acts. Such amounts are authorized to remain available until expended.

§§ 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 such spouse or child 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) REQUIREMENTS.—In connection with such provision of health care—

(1) CANDIDATE COUNTRY.—The term ‘candidate country’ means a country that the Secretary of Homeland Security determines is a developing country.

(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 interested agencies in the United States for purposes of section 1. Provided that—

(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).

(1) CANDIDATE COUNTRY.—The term ‘candidate country’ means a country that the Secretary of Homeland Security determines is a developing country.

(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 interested agencies in the United States for purposes of section 1.
(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 candidates.

(2) an updated version of the list required by paragraph (1) not less than once each year; and

(3) a determination 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).

(b) Authorization of appropriations.—

(1) The Secretary of Homeland Security shall appropriate such sums as may be necessary to carry out the amendments made by this subsection.

(2) There are authorized to be appropriated to section 317A—

(A) C O N TENT. The table of contents of such Act is amended by inserting—

1182(a)(7)(A)(i)(I)) is amended by inserting at the end the following:

(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:

(2) PUBLICATION.—The Secretary of Homeland Security shall begin to carry out subparagraph (A) no later than the effective date described in subparagraph (B) of section 302 of the Labor-Management Relations Act, 1947 (19 U.S.C. 188(c)(6)).

(3) E LIGIBLE ENTITIES. To be eligible to receive a grant under this section an entity shall—

(1) be a Federal, State, or local government, or a labor organization; and

(2) it provides wages and benefits to its 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 (19 U.S.C. 188(c)(6)).

(c) Health Care Workers with Other Obligations.—

(1) IN GENERAL.—An alien who seeks to enter the United States for the purpose of performing, in any qualified capacity, any other function or position for which the alien is not otherwise permitted to enter the United States shall demonstrate that 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.

(2) EFFECTIVE DATE; APPLICATION.

(A) EFFECTIVE DATE. The regulations promulgated pursuant to paragraph (1) shall—

(i) be

(ii) OBLIGATION DEFINED. In this subparapgraphic, 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 healthcare 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 obligation was incurred by 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 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.

(B) EFFECTIVE DATE. The regulation made by paragraph (1) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(c) ELIGIBLE ENTITIES. To be eligible to receive a training program that is jointly administered by—

(1) one or more healthcare providers or facilities; or

(2) a trade association of healthcare providers;

(ii) or other organizations which represent the interests of direct care healthcare workers or staff nurses 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, communication colleges, and accredited schools of nursing; and

(2) submit to the Secretary an application at such time, in such manner, and contain such information as the Secretary may require.

(e) ADDITIONAL REQUIREMENTS FOR HEALTHCARE EMPLOYER DESCRIBED IN SUB-SECTION (d).—To be eligible for a grant under this section, a healthcare employer described in subsection (d) shall demonstrate—

(1) the established program within their facility to encourage the retention of existing nurses;

(2) it provides wages and benefits to its employees that are competitive for its market or that have been collectively bargained with a labor organization; and

(3) it provides an educational program to employees that includes training opportunities.

(2) It is...
Providing assistance in preparing for and meeting all nursing licensure tests and requirements.

Providing stipends for release time and continued healthcare coverage to enable incumbent healthcare workers to participate in these programs.

The provision of paid release time, incentive compensation, or continued health coverage to staff nurses who desire to work full-time in nursing career ladder programs, including certified nurse assistants, licensed practical nurses, or licensed vocational nurses.

Contributions to a joint labor-management or other jointly administered training fund which administers the program involved.

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 programs.

The payment of tuition assistance to incumbent healthcare workers.

OTHER REQUIREMENTS.—

(1) MATCHING REQUIREMENT.—

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 one-fourth 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.

(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTIONS.—Non-Federal contributions required in subparagraph (A) may be made in cash or in kind (including paid release time), fairly evaluated, including equipment or services (and excluding indirect or overhead costs).

SUPPORT, NOT SUPPLANT.—Funds made available under this section shall support, and not supplant, resources dedicated by an entity, or other Federal, State, or local funds available to carry out activities described in this section.

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 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.

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;

(5) are modeled after or affiliated with such programs described in paragraph (4).

ACTIVITIES.—Amounts awarded to an entity under a grant under this section shall be used for the following:

(a) To carry out programs that provide education to establish credentialing 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 entry level college classes that are a prerequisite to nursing.

(B) Providing tuition assistance with preference for dedicated cohort classes in community colleges or 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 on 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.

(F) 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 programs.

(G) The payment of tuition assistance to incumbent healthcare workers.

(1) To carry out programs that provide incentives for obtaining advanced degrees and mentorship programs to assist nurses or which have established effective programs or pilots to increase nurse faculty;

(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 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) Are modeled after or affiliated with such programs described in paragraph (4).

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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-time in nursing career ladder programs, including certified nurse assistants, licensed practical nurses, or licensed vocational nurses.

(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 programs.

(E) The payment of tuition assistance to incumbent healthcare workers.

(1) OTHER REQUIREMENTS.—

(1) To carry out programs that provide incentives for obtaining advanced degrees and mentorship programs to assist nurses in obtaining advanced degrees and continuing their education and training to establish nursing career ladder programs, in- cluding Certified Nurse Assistants, Licensed Practical Nurses, Licensed Vocational Nurses, and Registered Nurses.

(2) REQUIRED COLLABORATION.—

(A) IN GENERAL.—

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